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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Report on the situation of human rights in Iraq, prepared by Mr. Max van der Stoel, Special Rapporteur of the Commission on Human Rights, in accordance with Commission resolution 1992/71

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Introduction

A. Mandate of the Special Rapporteur

1. At its forty-seventh session, the Commission on Human Rights adopted resolution 1991/74 of 6 March 1991 entitled "Situation on human rights in Iraq". As a result of that resolution, and upon its approval by decision 1991/256 of 31 May 1991 of the Economic and Social Council, the Chairman of the Commission appointed Mr. Max van der Stoel on 25 June 1991 to serve as Special Rapporteur of the Commission on Human Rights on the situation of human rights in Iraq. Thereupon, Mr. van der Stoel took up his duties as defined in resolution 1991/74 and submitted on 13 November 1991 an interim report (A/46/647) to the forty-sixth session of the General Assembly and, on 18 February 1992, a full report (E/CN.4/1992/31) to the forty-eighth session of the Commission on Human Rights.

2. By Commission on Human Rights resolution 1992/71 of 5 March 1992, as approved by Economic and Social Council decision 1992/241 of 20 July 1992, the mandate of the Special Rapporteur was extended for a second year. In so extending the mandate of the Special Rapporteur, the exact terms of the mandate remained unchanged (see operative paragraph 13 of resolution 1992/71), which is to say that the Special Rapporteur is only to consider "violations by the Government of Iraq" irrespective of any other violations relating to Iraq of which he may be, and is, aware.

3. As in the first year, the Special Rapporteur was requested to submit an interim report to the General Assembly at its forty-seventh session and a full report to the Commission on Human Rights at its forty-ninth session. Beyond these requests, the Special Rapporteur was also specifically requested, "in consultation with the Secretary-General, to develop further his recommendation for an exceptional response" and "in pursuing his mandate to visit again the northern area of Iraq, in particular" (operative paragraphs 10 and 13, respectively, of resolution 1992/71).

4. In accordance with his obligation to submit an interim report to the forty-seventh session of the General Assembly, the Special Rapporteur submitted his report in two parts (A/47/367 and A/47/367/Add.1) for reasons which will be explained below. Following consideration of the interim report, the General Assembly adopted resolution 47/145 on 18 December 1992 by a vote of 126 in favour to 2 against with 26 abstentions.

5. For more detailed accounts of both the mandate of the Special Rapporteur and his activities thereunder, attention may be drawn, in chronological order, to the Special Rapporteur's following reports: A/46/647 of 13 November 1991 (paras. 1-11), E/CN.4/1992/31 of 18 February 1992 (paras. 1-17), A/47/367 of 10 August 1992 (paras. 1-6), and A/47/367/Add.1 of 13 November 1992 (paras. 1-5).

B. Activities of the Special Rapporteur

6. In accordance with his duties as an independent expert in the service of the Commission on Human Rights, the Special Rapporteur continued to study the situation of human rights in Iraq by drawing on all available means. Information was again received from a wide variety of sources. Besides both general and specific reports, the Special Rapporteur received testimonies from victims and eye-witnesses of alleged violations. Reports and testimonies were sometimes supported by documentary evidence in the form of photographs, video-cassettes and official documents attributed to the Government of Iraq. In examining this information, corroborative evidence was sought and obtained on many occasions.

7. Subsequent to the extension of his mandate by Commission resolution 1992/71, the Special Rapporteur travelled to the United Nations Headquarters in New York in order to consult with the Secretary-General about the development of the human rights monitoring operation proposed to the Commission in February 1992. While in New York between 27 April and 1 May 1992, the Special Rapporteur took advantage of the opportunity to consult with the Secretariat about other human rights monitoring operations. He also consulted with the full membership of the Security Council, save Cape Verde (due to a scheduling difficulty), concerning the human rights dimensions of Security Council resolution 688 of 5 April 1991.

8. In the light of disturbing reports concerning the southern marsh area of Iraq in June 1992, and even more so in July 1992, the Special Rapporteur expressed a desire to travel to the area and survey the situation. However, in so far as his mandate had yet to be approved by the Economic and Social Council and in so far as the Council explicitly decided on 29 May 1992 only "to authorize the Secretariat to take provisional administrative measures related to the mandates adopted by the Commission on Human Rights ... until a formal decision on those mandates is taken by the Council" (see decision 1992/221 of the Economic and Social Council), the Special Rapporteur was precluded from acting in a formal manner beyond having consultations at United Nations offices.

9. While awaiting the legislative action of the Economic and Social Council, the Special Rapporteur continued to study, as an independent expert, the situation of human rights in Iraq and especially what then appeared to be a deteriorating situation in the southern marsh area of Iraq. The Special Rapporteur had continued to receive the information directed to him in his ostensible position, including information directed to him by the Government of Iraq. By the time the mandate was finally approved by the Economic and Social Council in decision 1992/241 of 20 July 1992, the Special Rapporteur had the firm impression that the disturbing situation in the south had worsened yet.

10. Alarmed by the seriousness of the many reports he had previously received, and having sought and obtained independent confirmation of several of the relevant facts, the Special Rapporteur appealed to the Government of Iraq to cease those of its activities which were in violation of its obligations under international law (see the full text of his letter in the

annex to document A/47/367). At the same time, the Special Rapporteur decided to submit without further delay a first part of his interim report to the General Assembly (A/47/367).

11. While the Special Rapporteur had decided upon this course of action, the Security Council was seized of the matter as it involved the engagement of large military forces and concerned the southern Iraqi territories bordering two States which had not too long ago had to defend themselves against aggressions by Iraq. However, it was notable that the main concerns arising at the Security Council related to the situation of the citizens of Iraq who were then the subjects of the most serious human rights violations by their own government. Acting as the only person within the United Nations system specifically charged to examine the situation of human rights in Iraq, the Special Rapporteur decided to bring advance copies of part one of his interim report to the General Assembly to the attention of the Secretary-General and the President of the Security Council. This was done on 30 July 1992 simultaneously with the transmission of an advance copy to the Government of Iraq.

12. According to the letter dated 3 August 1992 from the Chargé d'affaires of the Permanent Mission of Belgium to the United Nations (S/24386), part one of the Special Rapporteur's interim report was brought to the attention of the membership of the Security Council by the President of the Security Council (then Cape Verde) on the same day it was received by him, i.e. 30 July 1992. By his letter of 3 August 1992, the Chargé d'affaires of Belgium requested the distribution of the report as a document of the Security Council, as was done on 5 August 1992. Within a couple of days, various members of the Security Council expressed their desire to have the Council extend an invitation to Mr. van der Stoel to appear before the Council (see, e.g., S/24394 and S/24396). On 11 August 1992, such an invitation was extended to Mr. van der Stoel and he thereupon addressed the Security Council about the prevailing situation.

13. While in New York, the Special Rapporteur also met with persons involved in a joint project concerning the cataloguing and analysis of a huge quantity of documents found in the Government of Iraq security offices in the northern Kurdish area of Iraq. Specifically, some 4.5 million documents packed into 847 cartons and weighing some 14 metric tons were retrieved from Iraq and are in the custody of the non-governmental human rights organization Middle East Watch.

14. In the absence of any apparent improvement in the continuing situation in the southern marsh area of Iraq, and having read that an invitation was being extended to the Under-Secretary-General for Humanitarian Affairs to visit the southernmost parts of the country, the Special Rapporteur addressed a letter on 21 August 1992 to the Minister for Foreign Affairs of the Republic of Iraq to inquire whether the Government of Iraq would accept the proposal of placing human rights monitors in the area (the letter is reproduced in para. 141 below). The Special Rapporteur received no specific reply to this letter.

15. With reports of violations in the southern marsh area somewhat subsiding as of the end of August 1992, the Special Rapporteur focused his attentions more on what were evidently worsening prospects for the principally Kurdish population of northern Iraq. With the winter approaching and the Government of Iraq's internal embargo against the northern region reportedly tightening week by week, the Special Rapporteur sought information from all available sources. On 25 September 1992, the Special Rapporteur also addressed a letter to the Government of Iraq in which he formally requested a visit to the country, with unrestricted access to all locations and regions including the far south and the northern area; in view of various considerations, a visit was requested for the second half of November (the letter is reproduced in para. 142 below).

16. While awaiting the Government of Iraq's reply to his letter of 25 September 1992, the Special Rapporteur took the opportunity at the end of September 1992 to survey the mass of Iraqi official documents referred to above and to discuss matters with the researchers who had just begun the daunting tasks of cataloguing and analysis.

17. In the absence of a reply to his letter of 25 September 1992, but having been informed through the Permanent Mission of the Republic of Iraq to the United Nations Office at Geneva that the Government of Iraq desired an articulation of exact dates for the proposed visit, the Special Rapporteur addressed a letter on 23 October 1992 to the Minister for Foreign Affairs in which specific dates for the visit were proposed (the letter is reproduced in para. 144 below).

18. Awaiting the Government of Iraq's response to the proposition of a visit to the country, the Special Rapporteur prepared and submitted part two of his interim report to the General Assembly in accord with resolution 1992/71 (A/47/367/Add.1). In order to present his interim report to the General Assembly during the first days of the week of 23 to 27 November 1992, the Special Rapporteur travelled to New York. While at United Nations Headquarters, the Special Rapporteur was again invited to appear before the Security Council, as he did on 23 November 1992 (S/PV.3139 (Resumption 1)). Still without any response from the Government of Iraq concerning a visit, the Special Rapporteur returned to The Netherlands.

19. While in New York at the end of November, the Special Rapporteur again reviewed the progress on the documents project being conducted by Middle East Watch. However, it was already becoming clear that the process would be slow especially in view of the disorder of the documents which had neither been systematically captured nor packed nor stored in Iraqi Kurdistan.

20. Having made a selection of interesting documents from a selection of documents coming into his possession from different groups and from the major collection in the hands of Middle East Watch, the Special Rapporteur addressed a letter on 23 December 1992 to the Minister for Foreign Affairs of the Republic of Iraq enclosing 69 individual documents comprising 139 pages of text (including 37 Execution Decrees) together with a list of questions relating to specific documents or matters in general (the letter is reproduced in para. 145 below). However, the documentary research is still only very

partly done, and so more interesting documents are being brought to the Special Rapporteur's attention on a regular basis. In order to remain fully informed of the Government of Iraq's views about all these documents, therefore, it was necessary to again seek the Government's views on one such recently received document with the most serious implications, as described in Chapter III below.

21. As a consequence of the above, and in keeping with his duties to the Commission on Human Rights, the Special Rapporteur submits this final report to the Commission on Human Rights.

22. As was the case last year, the Special Rapporteur would like to note with appreciation the professional assistance provided by the Secretariat. He wishes especially to express his great appreciation for the contribution made by Mr. John Packer, Associate Human Rights Officer in the Centre for Human Rights, who so ably assisted him in his tasks. Ms. Anne Marie Kuijpers, Associate Expert, also contributed significantly to his work. Finally, he would like to thank Mr. Georg Mautner-Markhof, Chief of the Special Procedures Section, for his willingness to offer help and advice whenever it was requested.

I. LEGAL FRAMEWORK

A. Introduction

23. In studying and assessing the situation of human rights in Iraq, the Special Rapporteur has again applied only those standards of international human rights law which are applicable to Iraq as a result of undertakings of its own choosing, i.e. those which are articulated in the texts of the international human rights conventions to which Iraq has become a party. Aside from the explicit standards of such conventions, the Special Rapporteur has also applied such obligations as arise as a matter of international customary law.

24. The obligations undertaken by Iraq as a result of its accession to human rights conventions include the following: the Charter of the United Nations; the International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights; the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention on the Elimination of All Forms of Discrimination against Women; and the Convention on the Prevention and Punishment of the Crime of Genocide. Other important conventions to which Iraq has freely become a State party include the four Geneva Conventions of 12 August 1949 and the Constitution of the International Labour Organisation together with various Conventions developed under the auspices of that organization, such as Convention No. 98 of 1949 concerning the Application of the Principles of the Right to Organize and Bargain Collectively, and Convention No. 107 of 1957 concerning the Protection and Integration of Indigenous and other Tribal and Semi-Tribal Populations in Independent Countries.

25. With respect to human rights obligations arising under the Charter of the United Nations, explicit obligations are found in the Preamble, Article 1, paragraph 3, Article 55 (c) and Article 56. Of these, the texts of the Preamble, Article 1 (3) and 55 (c) emphasize the obligation of non-discrimination. Moreover, the texts of the Preamble and Article 1 (3) relate to the very object and purpose of the United Nations and, therefore, constitute primordial obligations of which no other action should supersede or detract. In this connection, and in terms of the specificity of the obligations arising from the Charter of the United Nations, the Special Rapporteur also notes the texts of various human rights declarations including the 1948 Universal Declaration of Human Rights, the 1959 Declaration on the Rights of the Child, the 1963 Declaration on the Elimination of All Forms of Racial Discrimination, the 1967 Declaration on the Elimination of All Forms of Discrimination against Women, the 1974 Declaration on the Protection of Women and Children in Time of Emergency and Armed Conflict, the 1975 Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the 1981 Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief.

B. The question of sovereignty

26. Having recounted the undertakings which the Government of Iraq is obliged to uphold and respect as a matter of general international law according to the principle of pacta sunt servanda which pertains as a fundamental tenet of international customary law and forms the basis of the Vienna Convention on the Law of Treaties, the Special Rapporteur cannot ignore the peculiar situation which applies to Iraq as a matter of other obligations arising under international law. These obligations arise as a result of sanctions legally applied to Iraq subsequent to its grave breaches of the most fundamental obligations of general international law. In particular, the Special Rapporteur refers to Security Council resolutions 661 (1990), 666 (1990), 687 (1991) and 688 (1991). In addition, the Special Rapporteur takes note of the related Security Council resolution 706 and 712 of 1991, and 778 of 1992.

27. Prior to commenting the effects of this special legal regime, the Special Rapporteur must emphasize that the nature of the obligations freely undertaken by Iraq and articulated in the conventions referred to above are such as to have effectively reduced Iraq's sphere of sovereignty over these matters while at the same time enlarging the competence of the international community over these same matters. In specific terms, the obligations arising from the Charter include among the very objects and purposes of this most basic instrument "respect for human rights", which, therefore, necessarily means (according to Article 31 of the 1980 Vienna Convention on the Law of Treaties) that the obligations of "human rights" cannot be escaped on the basis of Article 2, paragraph 7, of the Charter which relates to "matters which are essentially within the domestic jurisdiction of any state". In a similar fashion, obligations arising under other human rights conventions may not be avoided save for those specific obligations which are subject to permissible derogations and from which the Government has derogated according to the relevant procedural and substantive requirements. In connection with

this last matter, the Special Rapporteur refers to his comments in his first report to the Commission on Human Rights (E/CN.4/1992/31, paras. 34-39) and notes that, as far as he has been able to determine, the Government of Iraq has still yet to make any notifications of derogation to the Secretary-General.

28. In terms of the issue of sovereignty, which the Government of Iraq has referred to in attempting to avoid complying with its international obligations, the Special Rapporteur notes that, as a term of law, "sovereignty" comprises the extent of a State's legal capacities, competences or, effectively, its jurisdiction. Indeed, the very definition of the "State" in international law (as articulated in, inter alia, article I of the 1933 Montevideo Convention on the Rights and Duties of States) explains that the "sovereign" State is composed of a permanent population, a defined territory, a government, and the capacity to enter into relations with other States, i.e. the definition of the "State" means that a constituted government has a certain defined jurisdiction. Principally, that jurisdiction extends to the people and territory that largely defines the State in the first place. However, the notion of "a government" in international law has two important requirements: that the government be "effective", and that the government, as a result of the acts or omissions of its persons and institutions acting as "the State", is capable of being held "responsible". The relevance of these basic observations are important to the understanding of the situation of human rights in Iraq.

29. As already stated above, the Government of Iraq has entered into a variety of relations and agreements with other States in the form, notably, of multilateral human rights treaties which have created obligations inter pares. Iraq has thereby incurred responsibility to respect its obligations, which is to say that Iraq has agreed to respect human rights within its jurisdiction. This means that Iraq must extend the rights and protections of human rights to all persons falling within its jurisdiction, whether they be part of the "permanent population" of the State or whether they fall within the territorial jurisdiction of the State, i.e. whether they be citizens or persons in the territory of Iraq. As a result of these undertakings, Iraq's activities vis-à-vis human rights have become a matter of interest and concern in international law to all other parties to the relevant conventions, including the Charter.

30. In terms of the Government of Iraq's domestic jurisdiction notwithstanding any international obligations beyond the Charter, it is to be noted that Article 2, paragraph 7, of the Charter further states that the principle of non-intervention "shall not prejudice the application of enforcement measures under Chapter VII", which gives the Security Council competence, in Article 39, to "determine any threat to the peace, breach of the peace, or act of aggression" and to "decide what measures shall be taken ... to maintain or restore international peace and security". As a result of such determinations of the Security Council, Iraq has become obliged under international law to respect, inter alia, those resolutions mentioned above.

31. The responsibility of the Government of Iraq must be considered both in terms of its "normal" and "special" obligations in international law. Excuses or permissible defenses must also be considered in this context. To be sure, and as the Special Rapporteur has previously noted at some length in his previous report (E/CN.4/1992/31, paras. 22-39), there exist no "special circumstances" from which Iraq may derive an excuse or permissible defense to breaches of its human rights obligations. For example, the commission of acts of torture are simply never excusable or defensible. In addition, and with respect to various civil, and political rights and economic, social and cultural rights in particular, excuses such as "necessity" and "force majeure" would be impermissible in so far as there exist reasonable possibilities for the Government of Iraq to comply with the obligations of Security Council resolutions or utilize their available capacities (such as the "food for oil" formula presented in resolutions 706 and 712). Moreover, and in so far as the institution of the special legal regime applying as a result of the Security Council resolutions is itself the result of previous and continuing delicts on the part of Iraq, the Government of Iraq is effectively stopped from seeking the defense of "force majeure".

32. Turning to the issue of responsibility in connection with Iraq's territorial jurisdiction, the Special Rapporteur is concerned about the situation in the northern region of the State of Iraq from which the Government has withdrawn its administration. While the withdrawal of various administrative services and social and economic securities has been largely voluntary, the Special Rapporteur notes that this withdrawal was preceded by an insurrection. The territory has also become subject to armed international protection to which the Government of Iraq objects. Irrespective of the cause of Iraq's withdrawal of "effective government", however, the effect upon the population remaining in the territory has been severe. This is because, while the entire territory of Iraq is subject to international economic sanctions, the Government of Iraq has chosen to implement a severe economic embargo within its territory and affecting its own population. At the same time, Iraq has invoked its "sovereignty" over the territory to limit the humanitarian assistance available either through the United Nations or independent humanitarian groups.

33. In the face of the serious situation which has prevailed in the northern region for almost two years, the question arises as to whether or not international law can tolerate the status quo in so far as it places at risk the survival of the population (see below Chap. II, paras. 100-106). On the basis of humanitarian considerations which underpin the Charter and, especially, are intrinsic to the notion of human rights, the Security Council has acted to place exemptions for humanitarian assistance within the special regime of its resolutions applicable to Iraq. However, in the light of Iraq's withdrawal, its implementation of a severe internal embargo, and its disclaimer of responsibility, the Special Rapporteur notes that there is essentially an impasse which seriously affects the almost four million human beings living in the northern region. In terms of responsibility, if it is accepted that the Government of Iraq has been forced to withdraw its effective government from the region but that no other entity has effectively occupied the territory and thereby incurred responsibility for the population, there would appear to be an intolerable lacuna. This apparent vacuum of

responsibility, which has persisted for almost two years, is all the more disturbing because of Iraq's prevarications concerning the Memorandum of Understanding and the uncertainty of its willingness to extend or expand the terms of continuing international humanitarian assistance despite its constant references to the need to relieve the deteriorating situation throughout the country. In connection with the northern region, and without in any sense prejudicing the territorial integrity of the State of Iraq in international law, it would seem to the Special Rapporteur that the Charter places a residual obligation on the international community to fulfil the humanitarian needs of the affected population. The specific legal framework that might be applicable in this case, beyond the general provisions of the Charter, would be the administration of aid under Security Council resolution 688 in cooperation with the local representatives of the affected population. While the Government of Iraq may object to such humanitarian assistance, the limits of sovereignty in this sphere would serve to render the objection void until such time as the Government of Iraq might re-institute its administration in the region and respect its general human rights obligations together with those specific obligations arising under Security Council resolution 688.

II. ALLEGED HUMAN RIGHTS VIOLATIONS

A. Violations affecting the population in general

1. Summary or arbitrary execution

34. Reports and allegations of extrajudicial, summary or arbitrary executions continued to reach the Special Rapporteur in the course of the last year. Among the most serious of these (if one may be permitted to distinguish between more and yet more "serious" allegations of arbitrary execution), and certainly the most numerous, were reports concerning mass arbitrary killings resulting from indiscriminate bombardments of civilian settlements principally in the southern marsh area. These allegations were coupled with others alleging mass arbitrary arrest and execution on the spot or subsequently in "death camps" both in the area and beyond. While the Special Rapporteur commented upon some of these allegations in his last interim report (A/47/367, paras. 11-12), and deals with more in detail below (in section B, subsection 2), the Special Rapporteur recounts here below those allegations affecting other persons including as a result of "political killings".

35. On 26 July 1992, 42 merchants (of which the Special Rapporteur has 34 names) accused of profiteering were hanged in Baghdad. The executed merchants had reportedly been arrested with a larger group of traders and businessmen on 25 July 1992. According to the information received, the merchants were summarily tried and executed. Their bodies are said to have been displayed in public to serve as a lesson for others. During a speech on the day of the executions, President Saddam Hussein reportedly explained that "regrettably some merchants harmed the relationship with [the State]..." and that "... the law is used to break the necks of those who did not deserve to remain alive...". Iraqi press reported that the victims' "crimes are deemed, in view of the law and the special circumstances being experienced by our people, high treason, a crime punishable by death" (Al-Jumhuriyah, 27 July 1992). With

reference to these executions, the President reportedly stated that "These punishment measures are to assure the life of the people and to purge the Government and the society" (Al-Sharq Al-Awsat, 14 August 1992).

36. Several reports have been received on extrajudicial mass executions in Radwaniyah prison. According to reports attributed to two former prisoners who had been released in June 1992, hundreds of detainees were executed during the spring of 1992. The victims were reportedly lined up and executed by firing squad. Their bodies are said to have been buried in mass graves in the prison. Another report alleges mass executions in Radwaniyah prison on 16 October 1992, when a large number of detainees were reported to have been executed by firing squad.

37. With respect to what the Special Rapporteur has previously called "political killings" (inasmuch as they appear to have been directed against individuals in relation to particular political affairs), the Special Rapporteur has again received specific allegations. These include attempted thallium poisonings and one assassination in Amman, Jordan.

38. In regard to the cases of attempted thallium poisoning, two Iraqi citizens (including one former Iraqi Army officer), who claim to have been involved in an aborted plan for a coup d'état, were allegedly poisoned by an Iraqi Kurd said to have been working for the Government who offered them tea at the Political Bureau of the Patriotic Union of Kurdistan (PUK) in Shaqlawa at the end of March 1992. When symptoms of thallium poisoning were recognised, they were transferred by the Kurds to Syria. From there they were transported to London where they received treatment. Upon enquiry by the Special Rapporteur, the Poisons Unit of Guy's Hospital in London confirmed a diagnosis of severe thallium poisoning. A third case of thallium poisoning was reportedly being treated in the Assad University Hospital in Damascus. As noted previously by the Special Rapporteur (A/46/647, para. 19), these would not be the first cases of thallium poisoning attributed to agents of the Government of Iraq. In this connection, the Special Rapporteur notes with interest instruction B.1 of the 30 January 1993 "Plan of Action for the Marshes" (Document 18 of Annex I) which clearly authorizes Iraqi Security to engage in "strategic security operations such as poisoning".

39. On 7 December 1992, the Iraqi citizen Mr. Moayyad Hassan al-Janabi, a nuclear scientist, was reportedly murdered in Amman. Reports indicate that the victim was shot in front of his wife and two children. According to the information received, his wife had received a phone call before the killing from an Iraqi citizen who claimed to be carrying money from Mr. al-Janabi's relatives in Iraq. While the circumstances of the murder are being investigated by the Jordanian authorities, the Special Rapporteur has received several allegations that Mr. al-Janabi was murdered by Iraqi citizens acting on instructions from Iraqi Government officials, allegedly because the victim had failed to return to Iraq and resume his work after a holiday in Jordan. The object of instilling fear among Iraqi citizens residing in Jordan was also alleged.

40. In connection with summary or arbitrary executions, the Special Rapporteur wishes also to refer to reports of mass graves said to exist throughout Iraq, dating from before, during and after the Iran-Iraq war of 1980-1988. Several mass graves near Arbil and Sulaimaniya were exhumed on a fact-finding mission sent by Middle East Watch and Physicians for Human Rights to the northern Kurdish area of Iraq in 1992. The graves appeared to contain the bodies of scores of Kurdish civilians and combatants. In many cases, bodies were still dressed, suggesting that the persons were not buried according to Islamic traditions. Reports from relatives and grave diggers also indicate that proper burials were often forbidden. In this regard, the Special Rapporteur wishes to refer to Document 19 of Annex I in which a woman promises "to refrain from holding a funeral service" for her executed husband. As for the cause of death of the buried persons, it could sometimes be deducted from anecdotal evidence, documents and/or scientific analysis of skeletal remains, graves, grave-sites and purported execution sites. For example, the skeleton of a youth reportedly executed by firing squad was discovered still blindfolded, and having suffered gunshots through the skull.

41. Detailed reports on locations of mass graves in south-central and southern Iraq have also been received. Many of these graves are alleged to contain the bodies of hundreds of people who were executed during and after the uprisings in the spring of 1991.

2. Enforced or involuntary disappearances

42. Regular and consistent reports on disappearances continue to reach the Special Rapporteur. In this connection, the Special Rapporteur takes particular note of the recent report of the Working Group on Enforced or Involuntary Disappearance (E/CN.4/1993/25, paras. 303-315) which reports that 5,573 cases of disappearance were submitted to the Government of Iraq in the course of 1992, bringing the total transmitted by the Working Group to 9,447 cases. Some 2,000 cases of disappearance already approved by the Working Group are still being prepared for transmission, while well over 500 cases, including disappearances which reportedly occurred in 1992, are being analysed.

43. Beyond the above-mentioned cases, which meet the criteria of the Working Group in having a sufficient level of detail to enable a Government to locate the missing persons, the Special Rapporteur is in possession of thousands of names of missing persons, including some 5,000 recently received cases which may yet be taken up by the Working Group.

44. It is to be noted that the great majority of the disappeared persons are Kurds, of whom the two largest groups concern members of the Barzani clan who disappeared in 1983 and thousands of other Kurds who disappeared during the Anfal operations of 1988. Of this last group, the 5,000 cases recently received by the Special Rapporteur come from Kilar in the Governorate of Sulaimaniya. As will be discussed below in Part B, Section 2, of this Chapter, the increasing number of disappeared persons from the period of the Anfal operations gives growing credibility to allegations of total figures for disappeared Kurds in the tens of thousands.

45. Comparing the cases of disappearance referred to above with information found in the official Iraqi documents annexed to this report, the Special Rapporteur notes that among the Kurdish disappearances are the names of thousands of Barzani clansmen who were allegedly taken from Government camps at Qushtapa and Diyana on 30 July 1983, while Document 3 of Annex I curiously indicates that members of the "Barzani group" were being detained in April 1985. Other references to the "Barzani clan" are also noted in Documents 8 and 20 of Annex I (dated 10 June 1987 and 5 April 1990, respectively), with Document 8 referring to instructions "aimed at ending the long line of traitors from the Barzani and Talabani clans". Interestingly, Document 20 would also seem to indicate that the Government of Iraq maintains files on "missing" persons, even if they were arrested many years before.

46. Since 1987, when the two major Kurdish parties of Barzani and Talabani reportedly joined their ranks (see below paras. 85-88), numerous allegations have been received that oppressive measures were also directed against "subversives" being members either of the "Barzani clan" or the "Talabani clan" (see Document 8 of Annex I). In particular, during the Anfal operations in 1988, mass disappearances were reported to have affected both clans as intensive military operations were carried out in their respective areas. The attached cables on the "Third Anfal" (see Annex II) report on a massively destructive operation in April 1988 in the Germian plain where Talabani's Patriotic Union of Kurdistan (PUK) was apparently based. In that specific month and area, thousands of Kurds are believed to have disappeared in the waves of assaults by the Iraqi Army. The massive and obviously coordinated destruction of civilian settlements is described in detail further below and in the aforementioned cables.

47. In connection with the events of April 1988 in the Germian plain, the Special Rapporteur refers to the 5,342 cases of disappearance submitted to the Government of Iraq in July 1992. All these cases of disappearance mention April 1988 as the date of disappearance and many villages identified as the place of disappearance are mentioned in the cables of the "Third Anfal" as being "destroyed". In addition, a study of 1,105 cases of disappearance from the same period and area reveals that 36 persons reportedly disappeared from the village of Aziz Qadir which, according to Document 9 of Annex II, was entered and demolished on 11 April 1988 (other references to the occupation of this village are made in Documents 6 and 8 of Annex II). From the same study, a further 178 persons (including very many children and elderly) are said to have disappeared from the village of Tokin which is mentioned in Document 10 of Annex II. Out of the 1,105 cases studied, there are a total of 315 cases of disappearance from the sector of Qadir Karam where the "Third Anfal" reportedly took place, at least in part.

48. Reports on disappearances are, however, not restricted to the large Anfal operations of 1988. Although several amnesties were announced in September 1988, people in the north continued to disappear. One of many examples is the case of Zahir Hamad Taha, who reportedly disappeared on 12 October 1988 together with his wife and four children. Mr. Taha, who had been accepted as a refugee in The Netherlands, had returned to Iraq in October with his family after the announcement of an amnesty. The family had reportedly presented itself to Division No. 5 of the Army in Chwar Qurna,

Ranya, on the day of their return, i.e. 12 October 1988. There they were reportedly detained and taken to Kirkuk. They were last seen in a military truck in the town of Koysinjaq on 14 October 1988. Subsequent to a chance meeting with Saddam Hussein in Mosul, where the President promised relatives to release the family, an amnesty notice, dated 26 March 1989, was issued by the Revolution Command Council in which Mr. Taha and his wife are explicitly mentioned. However, they were never seen again.

49. The Special Rapporteur is also aware of disappearances from other periods and concerning persons from other areas of the country, notably after the March 1991 uprisings in the south of Iraq. The Special Rapporteur is also aware of the continuing allegation that some 850 missing Kuwaitis (and others) allegedly taken from Kuwait during the Iraqi occupation in 1990-1991 have disappeared in the custody of Iraqi forces. According to letters dated 13 and 29 January 1993 from the Government of Kuwait, there remain some 850 missing persons in this connection, of which the Government of Kuwait has compiled some 600 detailed case-files (360 of which are in the possession of the Special Rapporteur). In response to this allegation, however, the Special Rapporteur notes that the Government of Iraq has consistently denied having custody of any such persons (S/23825).

3. Torture and other cruel, inhuman or degrading treatment

50. Since his last report to the Commission on Human Rights (E/CN.4/1992/31), the Special Rapporteur has no reason to believe that the practice of torture by Iraqi Security forces has come to an end. Rather, the practice of torture by Iraqi Security forces appears to remain widespread, as indicated in the Special Rapporteur's previous reports (A/46/647, paras. 17-18, 55, and 68-70; E/CN.4/1992/31, paras. 51-59, 141 and 149; and A/47/367/Add.1, paras. 39, 48 and in its annex). The different methods of torture are reportedly numerous and have been partly catalogued in the Special Rapporteur's first report to the Commission on Human Rights (E/CN.4/1992/31, para. 57). Reports of torture and inhuman treatment in the past year include beatings, burnings and electric shocks, to name the most common. Many of the previous reports on systematic psychological and physical torture have been corroborated by considerable testimony from victims and eye-witnesses.

51. The use of psychological torture during interrogation is also corroborated by Document 5 of Annex I in which the Ministry of the Interior states that interrogation rooms could be used "to wear down the nerves of a suspect and subject him to psychological pressure by keeping him without sleep for a certain period of time". Which persons should be subjected to this form of torture is in some cases apparently the responsibility of the investigating officer. Such instructions, other than implying impunity, leave a disturbing freedom of action to the investigator. The said interrogation rooms, in which "clandestine and non-clandestine bugs and recording equipment" were installed, did, however, not produce "the desired results", which leaves the Special Rapporteur to fear what other techniques might be employed to achieve "the desired results".

52. Cases of both psychological and physical torture continue to reach the Special Rapporteur. Two former detainees of Radwaniyah prison, released in June 1992, reported that they had been subjected to beatings and electric shocks during the four months that they had been detained. They reported that several other detainees had died under torture, with one said to have died from burns suffered when he was tied to a skewer and "roasted" over a flame.

53. Other cases of torture reported to have occurred in 1992 concern persons who were in detention in Abu Ghraib prison. Specific and documented reports in the possession of the Special Rapporteur indicate that certain persons who were in the prison during the time of the Special Rapporteur's January 1992 visit were subsequently tortured and killed by bullet wounds. While the well-documented torture and bullet wounds on the recovered bodies would clearly establish that the victims were subjected to violative acts, and that the cause of death did not conform to judicially sanctioned executions (which are to be done by hanging, according to Iraqi law), the names of the victims are not those of any whom the Special Rapporteur spoke with personally (despite reports to the contrary), although it is possible that they may have been among the crowds that the Special Rapporteur encountered.

54. In so far as virtually all reports of torture or cruel and inhuman treatment relate to events said to have occurred while the victims were in detention, whether before or beyond any judicial review or whether during a sentenced prison term, the Special Rapporteur draws attention to the Committee on Human Rights' General Comment 21/44 of 6 April 1992 which, inter alia, stresses the positive obligation of the State "towards persons who are particularly vulnerable because of their status as persons deprived of their liberty".

4. Arbitrary arrest and detention, and due process of law

55. The Special Rapporteur addressed the widespread phenomenon of arbitrary arrest and detention in his previous reports (A/46/647, paras. 14-15, 55, and 63-65; and E/CN.4/1992/31 paras. 65-66, 141 and 145 (b), (c) and (d)).

56. Among the most commonly cited prisons where people are often said to be arbitrarily detained for many years are Radwaniyah and Abu Ghraib prisons. The Special Rapporteur is, however, also in possession of information and testimonies indicating well over 100 places of detention in the country, including both conventional centres (e.g. Security centres and Military Intelligence centres) and unconventional centres (such as basements of supermarkets, public buildings and even mosques). People have also reportedly been detained despite the fact that amnesties have been declared according to which they should have been released. For example, the Special Rapporteur is in receipt of a list of 153 names of political prisoners, still said to be in detention in Abu Ghraib prison, who should apparently have been set free in accordance with a general amnesty on 21 July 1991.

57. While the Special Rapporteur remains of the opinion that all persons previously sentenced to terms of imprisonment by the now-dismantled Revolutionary Courts are arbitrarily detained in so far as the make-up and procedures of the Revolutionary Courts did not afford due process of law, the

Special Rapporteur is also aware of specific cases of 1992 which are of a similar nature, both before special courts and normal courts. In this connection, it is to be noted that the Working Group on Arbitrary Detention considers persons arbitrarily detained where judicial procedures fall short of the requirements of due process of law as articulated in article 11(1) of the Universal Declaration of Human Rights and article 14 of the International Covenant on Civil and Political Rights (E/CN.4/1992/20, Annex I). To mention specific cases of apparent arbitrary detention, the Special Rapporteur refers to the cases of two British citizens, Mr. Paul Ride and Mr. Michael Wainwright, who were arrested in 1992 and have subsequently been detained in the Foreigners Section of Abu Ghraib prison. According to information received, Mr. Ride had been travelling along the Iraq-Kuwait border on the Kuwaiti side when he reportedly lost his way in poor weather conditions along the unclearly marked borderzone on 28 June 1992, whereupon he was arrested by Iraqi authorities. At a trial held on 18 August 1992, he was sentenced to seven years imprisonment for illegal entry of Iraq. In the case of Mr. Wainwright, who was detained on 24 April 1992 at Mosul for illegally crossing the border from Turkey, the detained person claims to have been in possession of what he thought was a valid visa. After some three months detention, during which time the British Government was uninformed of the situation, Mr. Wainwright was sentenced in August 1992 to 10 years imprisonment for the same offence as Mr. Ride, i.e. illegal entry of the country. According to reliable information, the convicted persons were represented by a local lawyer assigned by the court, and there is considerable doubt that there was sufficient, if any, interpretation at their trials. These important shortcomings are similar to those reported in the case of Mr. Ian Richter on whom the Special Rapporteur previously reported (E/CN.4/1992/31, paras. 69-70). Moreover, the disproportionately lengthy sentences for the crimes allegedly committed, as well as the unexplained three year difference between the sentences, would appear also to be arbitrary.

58. Such processes and sentencing as described above is apparently not uncommon in Iraq judging from the numerous reports received by the Special Rapporteur. However, with respect to the strict application of standards of due process of law in Iraq, which necessarily implies the framework of a rule of law, it is perhaps more important to observe the breadth of extrajudicial activities which are common to the existing order in the country. In this regard, the Special Rapporteur refers in particular to Documents 2, 4, 9, 12, 13, 18 and 21 of Annex I and recalls his previous remarks concerning the existence of "parallel orders" in Iraq (E/CN.4/1992/31, para. 155).

5. Freedom of association and expression

59. Article 26 of the Provisional Constitution of Iraq guarantees "freedom of opinion, publication, meeting, demonstration, forming of political unions and societies", but only "in accordance with the aims of the Constitution and within the limits of the law". In addition, the noted freedoms can only be exercised "in line with the nationalist and progressive line of the Revolution". The manner in which these restrictions have been reflected in "the law" is of considerable importance.

60. The Special Rapporteur has previously reported on interferences with the freedoms of association and expression (E/CN.4/1992/31, paras. 76-80). Aside from such laws as Revolution Command Council Decree 461 dated 31 March 1980 (which made membership of or affiliation with the Islamic al-Da'wa Party a capital offence, but which the Government claims has never been implemented, despite the Special Rapporteur's receipt of many allegations, and has since been abrogated), the Special Rapporteur notes the strict controls effected over political and labour associations.

61. With respect to interferences with freedom of association of a political nature, the Special Rapporteur refers to Document 1 of Annex I which condemns to death: any member of the Baath Party who "deliberately conceals his previous party-political links and affiliations"; any present or past member who "had connections with any other party or political body"; and any member who "after leaving the Party, joins and works for, or in the interests of, another party or political body". Aside from the fact that this condemnation is apparently issued merely from the Arab Baath Socialist Party and not a proper executive or judicial office, and setting aside the obvious breadth of the clauses which invite arbitrariness, the clear effect of this kind of condemnation is to reduce, if not eliminate, any other political association.

62. Despite the effects of the above-mentioned restriction, a new law on political parties was announced in September 1991. However, this law (which, as far as the Special Rapporteur can determine, has yet to be implemented) essentially fails to remove the prohibition on political parties who do not follow the principles of the ruling Baath Party. According to the law, the Government of Iraq can still control the activities of permitted parties from their establishment to their dissolution insofar as each year the parties must submit to the Ministry of the Interior a complete and detailed membership list. Moreover, the law stipulates that the President of the Republic alone will decide on the annual allocation of state funds to political parties.

63. With respect to labour associations, there exists effectively only one union, the General Federation of Iraqi Trade Unions, which comprises all other trade unions of the governorates and supervises their activities. All subsidiary unions and the Federation are dominated by Baath Party members. While related labour rights, such as the right to strike, are effectively forbidden according to the Labour Law of 1987, the right to form free labour associations is in any case effectively denied, thereby undermining the significance of other purported guarantees. In this regard, the Special Rapporteur notes that the Republic of Iraq is a State Party to the 1919 Constitution of the International Labour Organisation which guarantees the freedom of association in its Preamble and also in Part I.B of the Declaration of Philadelphia which is annexed to and forms an integral part of the ILO Constitution.

64. As concerns freedom of expression, the Special Rapporteur has previously referred to Revolution Command Council Decree No. 840 of 4 November 1986 which prescribes severe punishment including the death penalty for anyone insulting the President or anyone representing him, the Revolution Command Council, the Baath Party, the National Assembly or the Government (A/46/647, para. 33).

65. Serious restrictions on freedom of expression are also paralleled by strict controls of almost all means of communication (newspapers, radio, television) which, along with the Iraqi News Agency, are State properties controlled by the State. Iraqi press and foreign press are both subject to censorship. While a multicultural society such as Iraq might reasonably be expected to have its diversity reflected through the media, the Iraqi media are largely used as an instrument to propagate the "nationalist and progressive line of the Revolution", based on the Baathist ideology. Often, the media are used in concert to achieve the Government's ends.

66. The existence of such laws and decrees with the status of law coupled with the total control of the media evidently undermine the possibility for citizens to freely express their opinions. Such laws and controls on freedom of association and expression are even more insidious given the existence of the Government's extensive and pervasive security apparatus which ensures that everyone behaves "in line with the nationalist and progressive line of the Revolution". The resultant fear among the population reportedly causes the people of Iraq even to suspect their friends and relatives of being Government informers and effectively denies Iraqi citizens the enjoyment of free expressions of their cultural, religious and political views and ideas both in public and within their private lives.

6. Access to food and health care

67. Issues arising from the obligations of the Government of Iraq to ensure fair and equal access to adequate food, shelter (including heating) and other necessities relating to minimum levels of health have been addressed in each of the Special Rapporteur's previous reports, as follows: A/46/647, paragraphs 52-54, 55, and 95-98; E/CN.4/1992/31, paragraphs 81-83, 138, 143(w), 145(o) and (p), and 158 at points 4 and 5; A/47/367 paragraph 14; and A/47/367/Add.1, in considerable detail, at paragraphs 6-14, 56(a), (b) and (c), and 58(a), (b) and (c). Since his last report to the General Assembly, the Special Rapporteur has continued to receive a steady flow of information describing a deteriorating situation and indicating the unwillingness of the Government of Iraq to attend to its responsibilities in respect of the economic rights of the population.

68. With respect to the nature of the obligations of the Government of Iraq concerning access to food and health care, the Special Rapporteur refers to his comments in Chapter I.B of this report. To recapitulate, while there is no doubt that the economic sanctions imposed by the international community in response to the aggressions and international delicts of the most serious kind committed by the Government of Iraq have affected the population of Iraq, it is equally clear as a matter of international law that the Government of Iraq is also to be held responsible for this general situation and the resultant hardships inasmuch as it alone may take such steps as would facilitate increases in humanitarian supplies and assistance and would, in fact, result in the lifting of the sanctions (for more on the responsibility of the Government of Iraq, see below chapter IV, section B). Aside from this fact, however, it is beyond any doubt that the Government of Iraq, and only the Government of Iraq, is responsible for inequalities in the distribution and availability of such resources as it does possess. Impermissible

discrimination in this regard is unequivocally exemplified by the regime of severe internal embargoes imposed by the Government of Iraq within in its own territories and directed against groups of its own citizens.

69. In terms of the actual situation, the Special Rapporteur has received information from a variety of non-governmental and intergovernmental organizations, including specialized humanitarian organizations, most reports of which are public information. The Special Rapporteur is aware of considerable information available from the Government of Iraq, including such reports as are contained in Security Council document S/24338 of 6 August 1992 and information submitted by the Permanent Mission of the Republic of Iraq to the United Nations Office at Geneva to the Centre for Human Rights on 25 January 1993 describing increased mortality rates. The Special Rapporteur also notes the content of Press Release IR/35 of 4 February 1993 from the United Nations Inter-Agency Humanitarian Programme in Iraq which describes in detail the continuing needs in the country. The aforesaid press release, which was compiled on the basis of information contributed from such United Nations specialized agencies as UNICEF, WFP, FAO and WHO, notes significantly that "the number of people falling within the vulnerable category has steadily increased and is likely to rise further".

70. Setting aside, for the moment, the question of responsibility, the Special Rapporteur cannot help but observe the existence of specific and serious discrimination within the country in terms of access to food and health care. For example, it is to be noted that while the Government of Iraq argues that there is such a terrible need and that the consequences of the present situation are most serious for the most vulnerable, the Government publicly extends disproportionately large increases in salaries to its military services, especially certain already favoured branches. In a very recent and public display, the President of the Republic was seen on 18 January 1993 awarding huge bonuses of 15,000 Iraqi Dinars to gunners who had apparently shot down in-coming American missiles. The same day, however, Baghdad radio reported that emergency rations, which have been reduced over the past year, were being issued. More broad-based discrimination is also apparent in the significant disparities in the distribution of rations and reconstruction subsequent to the Gulf War. In this connection, the Special Rapporteur notes the above-mentioned report of the United Nations Inter-Agency Humanitarian Programme in Iraq which states that "especially in the southern governorates, water supply, sanitation and basic health needs remain critical".

71. The most obvious and severe discrimination is constituted by the internal embargoes imposed by the Government of Iraq on the northern region and the southern region. In the north, the Government has voluntarily withdrawn all of its administration along with the extension of a large part of the rations, social security, pensions and other support for Iraqi citizens in the region. While this itself may be understandable given the general situation described in Chapter I above, the Government has decided to impose a progressively severe embargo which permits essentially no exceptions for humanitarian needs, including food, medicaments, gasoline and heating oils. Persons who are able to make the trek to and from the Government-controlled area have generally only been permitted to return with an extremely limited amount of food and

with virtually no fuels. Reports indicate that pensioners who have made the journey to receive their pension monies have been denied the rights to purchase food, medicine or other commodities for personal needs, while some have even been taxed at check-points on their return home. As a policy of the Government, this most evident embargo is supported by the references in Documents 12, 15 and 17 of Annex I. As for the economic restrictions and effective embargo affecting the population of the southern marsh area, which, in contrast to the internal embargo against the north, the Government has denied, the Special Rapporteur draws attention to instruction C.5 of Document 18 of Annex I. These policies of the Government of Iraq seriously endanger the lives of millions of Iraqi citizens.

72. Above all, the Special Rapporteur must stress again the fact that the international economic sanctions imposed on Iraq for its serious breaches of international law make specific and explicit exceptions for the humanitarian needs of the population, including foodstuffs and medicaments. Given the serious needs of the population, which largely result from the Government of Iraq's refusal to accept available means of enlarging the resources of food and medicaments for the benefit of the population, the Special Rapporteur cannot ignore the continuing refusal of the Government of Iraq to take such actions as are available to it.

B. Violations affecting ethnic and religious communities

1. In general

73. As the Special Rapporteur has previously remarked, Iraq is a country with a rich diversity of peoples. While building a strong sense of national community through the twentieth century, Iraq has largely been able to maintain the colour and vibrancy of its various ethnic and religious communities. The multicultural civil society, having lived together for centuries, if not millennia, at the cross-roads of East and West, has given birth to an impressive catalogue of personalities and ideas which have contributed significantly to the common heritage of mankind.

74. The multicultural nature of Iraq remains today; but the events of recent and contemporary history appear to be threatening the richness and vibrancy of this society as they reveal a disturbing picture of ethnic and religious oppression at the hands of the ruling political elite in the country. Whether or not this apparent oppression is specifically aimed at entire groups solely because of their ethnic or religious nature, it is clear that the effects of Government policies are often group-wide.

75. In each of his previous reports, the Special Rapporteur has made reference to, and examined to varying extents, the situation of non-dominant groups in Iraq. In the course of his studies, he has referred to five different groups: Assyrians, Kurds, Ma'dan, Shi'a, and Turkomans. Of these groups, the reported violations affect the Assyrians, Kurds, Ma'dan and Turkomans essentially as ethnic groups, although the Christian affiliation of the Assyrians and the Shi'a affiliation of the Ma'dan are not insignificant facts. For the religious community of the Shi'a in general, which by virtually all accounts constitute the religious affiliation of a majority of

the Iraqi population, the reported violations concern the group largely in terms of its religious institutions and so reported violations bear disproportionately upon the clergy, religious establishment and order. Still, discrimination against the Shi'a has also been reported on a wide scale in terms of access to and mobility throughout public institutions of government. However, in examining the allegations of all the groups named above, whether ethnic or religious in their nature, the Special Rapporteur notes that the common denominator among the groups appears to be the fact that they exist largely outside the institutions of political power. In this connection, the Special Rapporteur cannot help but emphasize the virtual absence of allegations of violations against the Sunni Arab population in terms of their ethnicity and religious affiliation.

76. While the Special Rapporteur could discuss the violations affecting ethnic and religious groups in general terms as they continue to affect the population, the current situations of some of these groups appear more acute than others. In particular, the prevailing crises in the north and south of the country evidently affect the Kurdish and Ma'dan populations in particularly harsh terms. Similarly, allegations of violations affecting the Shi'a religious establishment and order reportedly persist and may be becoming more serious still. Consequently, the Special Rapporteur believes that it is necessary to address the situations of the Kurds, Ma'dan (including others in the southern marsh area) and Shi'a in more detail below.

77. In focusing in this report more directly upon the Kurds, Ma'dan and Shi'a, the Special Rapporteur does not mean to suggest that the violations he has previously reported relating to the Assyrians (E/CN.4/1992/31, paras. 109-113 and 141) or Turkomans (A/46/647, paras. 48, 55, 89; E/CN.4/1992/31, paras. 114-117, 141, 143(a), 145(n); and A/47/367/Add.1 para. 55(o)) have been resolved. Indeed, while some of the violative acts previously reported may have ceased in temporal terms, such as the widespread destruction of Assyrian villages and churches (E/CN.4/1992/31, paras. 110-111), the consequences endure. For many of the victims of these violations, the effective result has simply been that they have been forced to flee the country - as large numbers did especially in the wake of the March 1991 uprisings. For many of the Assyrians who remained or have returned, they share the lot of the predominantly Kurdish population of the northern area from which the Government of Iraq has withdrawn its administration. For virtually all the victims, the Special Rapporteur observes that the absence of any attempt on the part of the Iraqi authorities to redress the effects of past (and continuing) violations by means of restitutio in integrum or appropriate compensation constitutes another violation of Iraq's international obligations.

78. For the Turkoman population (who, as far as the Special Rapporteur has been able to establish, never constituted real political opposition in recent times), their lot has been more that of a traditional ethnic and linguistic minority in search of commonly sought after minority rights, such as the freedom to enjoy education and training in the Turkish language and to enjoy cultural and media programming in the Turkish language. Indeed, aside from the various violations essentially in connection with language, culture and property, and upon which the Special Rapporteur has previously reported, it

is to be noted that the Turkoman population also seeks recognition as a minority before the law in so far as this has apparently not been accorded and in so far as article 6 of the Provisional Constitution of Iraq declares that "The people of Iraq consists of Arabs and Kurds".

2. Violations affecting the Kurds

(a) Introduction

79. The Special Rapporteur has addressed violations affecting the Kurdish population in most of his previous reports (A/46/647, paras. 47, 55, 87-88; E/CN.4/1992/31, paras. 95-108, 141, 145(l) and (m), 153, 158; and A/47/367/Add.1, paras. 24-31, 36-37, and 56).

80. During the uprisings in March 1991, and on the heels of the Gulf War, most of the Autonomous Region of Kurdistan, and parts beyond, fell to the de facto control of the local population. Counter-attacks by Government forces regained control over part of the area, including Kirkuk, in April 1991. As described in Chapter I above, something of a legal vacuum has existed since that time, with the local and predominantly Kurdish population in de facto control of most of the three northern Iraqi Governorates of Dohuk, Arbil and Sulaimaniyah, but with the Government of Iraq having withdrawn its administration and disclaiming any responsibility either for the territory or the people therein.

81. The present situation in the northern area came about after negotiations between the local Kurdish leadership and the Government of Iraq were undertaken in April 1991 with a view to bringing the area back under some kind of normal national administration which would take into account the desire of the population to maintain an effective and autonomous government having power over local affairs and interests. However, despite the intentions expressed by both sides to settle the dispute, no agreement was reached. In particular, the Kurds objected to the reinstitution of the Iraqi security apparatus in the Autonomous Region. In reaction to this impasse, and seemingly inconsistent with the expressed intentions of Deputy Prime Minister Tariq Aziz (E/CN.4/1992/31, para. 108), the Government of Iraq withdrew all government officials and social and administrative support in October 1991 and, moreover, imposed an economic blockade on the Kurdish region. The political vacuum in the north was filled by the Kurdish Front, a coalition of eight political parties, which took over de facto authority pending democratic elections which were eventually held in May 1992.

82. With the political impasse reported by the Special Rapporteur in his last report to the Commission on Human Rights (E/CN.4/1992/31, para. 108) evidently remaining, if not having hardened, the local population of the blockaded northern region proceeded on 19 May 1992 to hold elections for the Iraqi Kurdish National Assembly and the Leader of the Kurdistan Liberation Movement. International observers, who were present during these elections and largely confirmed the free and democratic nature of the process, essentially confirmed the published results that almost 1 million of the local population took part with some 90 per cent of these casting votes in favour of the two main parties, the Kurdish Democratic Party (KDP) led by Massoud Barzani and the

Patriotic Union of Kurdistan (PUK) led by Jalal Talabani. According to the preselected system of proportional representation, drawing on Party lists of candidates, no other Party achieved the 7 per cent threshold required to obtain a seat in the Assembly. Consequently, the KDP was entitled to 51 seats and the PUK was entitled to the remaining 49 seats in the National Assembly. However, in a confident gesture of good-will, the KDP chose to cede one seat to the PUK in order to have the 100 popularly contested seats divided equally. In addition to these 100 seats, however, the Assembly reserved 5 seats for the Christian Assyrian community in order to ensure their representation in what would otherwise be an exclusively Kurdish and Moslem Assembly. Moreover, the controlling political parties welcomed representatives of three other parties (some having acquired as little as 2 per cent of the popular vote) into the new government in order to reflect the ethnic, religious and political diversity of the region. As for the leadership of the Kurdistan Liberation Movement, Messrs. Barzani and Talabani virtually tied in the 19 May election (with Mr. Barzani emerging slightly ahead) and consequently agreed to share the leadership pending a future electoral run-off between them.

83. On 4 October 1992, the Kurdish National Assembly pronounced itself in favour of a unified, federal and democratic Republic of Iraq maintaining the cultural diversity and territorial integrity of the State. However, despite this announcement of the Kurdish Assembly in favour of the national unity of the Republic of Iraq, and specifically against the pursuit of external self-determination, the newly elected Kurdish government, as an autonomous regional administration, has not been acknowledged by the Government of Iraq. Further, rather than endeavouring to find common ground upon which a peaceful solution might be found, the Government of Iraq and personalities close to the Presidency have reportedly expressed veiled threats to reinstitute control by force and to do away with the Kurdish leadership. Such reports are given credence by the massing of Iraqi military forces around the northern region and by widely published statements attributed to Saddam Hussein in December 1992 to the effect that the Government of Iraq will "apply the rule of law" again to the region once the "foreign troops are out" and certain "elements" have been removed.

84. In order to understand the present and continuing violations of human rights affecting the Kurdish population in particular, the Special Rapporteur believes that it is necessary to take into account the historical context. Consequently, a very brief summary of the historical antecedents of the on-going policy of oppression, including especially the events of 1987-1988, will be reviewed before returning to the present situation.

(b) A history of oppression

85. According to numerous reports, the Kurdish minority has endured severe oppression at the hands of various national administrations since at least the beginning of this century. Under the present Government of Iraq, i.e. the administration of the Arab Baath Socialist Party which came to power in 1968, the oppression has continued and even escalated, despite the introduction of commendable legislation which portended autonomy for the Kurds. In particular, the period of the Presidency of Saddam Hussein (July 1979 to the

present) has seen particularly severe oppression which culminated in Government aggressions which the Special Rapporteur has previously described as "genocidal" in nature (E/CN.4/1992/31, paras. 97-103).

86. In the 1970s, the Arabization of the disputed Kirkuk region and the creation of a no-mans-land along the border with Iran and Turkey resulted in the forced relocation of tens of thousands of Kurds in so-called "collective villages"; these villages were often located in barren areas easily accessible to the Iraqi Army. It was reported that only some Kurds received minimal compensation for the loss of their homes and farmland and were forbidden to return to their villages, of which many had been destroyed. Among the displaced Kurds were members of the Barzani clan, who were allegedly internally displaced to desert camps in southern Iraq without any compensation for their destroyed property. A few years later, in 1980, these Barzanis were reportedly relocated once again from the south to the Qustapha and Diyana camps near Arbil in the north. Their relocation is alleged to have been carried out by the Iraqi authorities in retaliation for the alliance of the Kurdish peshmerga of Massoud Barzani with the Iranian forces at the beginning of the Iran-Iraq war in September 1980. Following the Iranian occupation of Hajj Omran in July 1983 in northern Iraq, 8,000 Kurdish Barzani tribesmen (including more than 300 children) were reportedly taken from the Qustapha and Diyana camps and disappeared in Iraqi custody (A/46/647, paras. 16 and 55, together with the Special Rapporteur's later comments at paras. 66-67). In this connection, the Special Rapporteur notes the curious reference to the "Barzani group" in Document 3 of Annex I, which seems to imply that the Government of Iraq was still in custody of such persons. However, none seem to appear among the 523 names on the 37 execution Decrees that form part of the aforementioned document as attachments.

87. Apparently to prevent the peshmerga from hiding themselves in the mountains and villages of Iraqi Kurdistan, an increasing number of Kurdish villages were destroyed in the mid-1980s. Again many Kurds were forcibly relocated to "amalgamized villages" and government complexes. The number of relocated Kurds in this second wave of village destruction has been estimated as 500,000. This process of evacuation and detention of "subversives" and their "relatives" appears to be confirmed by the text of Document 6 of Annex I which refers to instructions, which presumably applied throughout the region, issued by the Director-General. The Special Rapporteur is in possession of other similar documents.

88. In early 1987, when the Kurdish peshmerga were reported to be in control of a great part of northern Iraq, the forces of the Kurdish leaders Massoud Barzani and Jalal Talabani apparently joined together in order to fight the Iraqi Army. According to several informed observers of the situation, this might have been the moment when the Government of Iraq made the determination that effectively all Kurds were potential enemies of the State. This supposition is strengthened by the reference in the first sentence of the attachment in Document 8 of Annex I, dated 7 June 1987, which describes instructions "aimed at ending the long line of traitors from the Barzani and Talabani clans and the Communist Party, who have joined ranks with the Iranian invader enemy". At this point, all Kurds were put at risk by what appears to have been a non-judicially controlled policy aimed against the

nebulously defined "subversives", "saboteurs", "Iran's agents", "traitors", "Barzani group", "Talabani group", together with "deserters" and "evaders". So, apparently, came into existence what the Government of Iraq labelled, and what is infamously known to the local population as, the "Anfal operations".

(c) The Anfal operations

89. The allegations of genocidal practices which the Special Rapporteur described in his last report to the Commission on Human Rights (E/CN.4/1992/31, paras. 97-103) have been investigated somewhat more thoroughly. Besides testimonies from individuals and reports of investigations carried out by internationally renowned forensic scientists, an invaluable source of information is constituted by the 14 tons of documents found in Iraqi security offices in northern Iraq during the March 1991 uprisings. Although only a small percentage of these documents have so far been examined, it is already clear that they corroborate the allegations of genocide-type operations against the Kurds in 1987 and 1988. Together with the testimony received and the physical evidence which is still observable in the region, the increasing evidence in the possession of the Special Rapporteur is all the more convincing.

90. According to testimony and the initial findings from the documentary evidence, the Anfal campaign was a very well planned, organized and documented operation. In this regard, reference may be made to the selected documents from the "File on the Third Anfal Operation" (reproduced in Annex II) which consists of 33 cables reporting in a very detailed manner on the military operations carried out in one district in April 1988. From the cables, it would appear that the operations were carried out according to mapped instructions, i.e. a detailed plan. The reported military actions employed the use of "artillery, mortars and tanks" (Doc. 8) and "aircraft" (Doc. 12) to variously "demolish", "raze", "burn", "destroy" and "wipe out" 113 named villages in the district, while Document 3 reports "the demolition of all villages located in its sector". No effort appears to have been spared as there were even "helicopter landings to deploy troops in remote villages inaccessible by road" (Doc. 4). Operations were evidently followed on maps, while Military Intelligence went about the business of documenting the operations, even taking the time (according to Doc. 11) to photograph dead "subversives". Strikingly, this appears hardly to have been an isolated campaign as it is to be noted that the Special Rapporteur is in possession of three other similar files of cables relating to "The Fourth Anfal Operation" dating from 4 to 9 May 1988 and "purification" or "cleansing" operations in Qara Dagh from 23 March to 1 April 1988 and the sectors of Tuz, Qadir Karam and Kilar from 18 to 21 August 1988, i.e. after the end of the Iran-Iraq war.

91. The word Anfal is allegedly derived from the name of Sura 8 in the Koran, titled "The Spoils", which refers to the plunder or spoils of the infidel. This Koranic name suggests that the Anfal operations were directed against infidels, although the majority of the Kurds are Sunni muslims. The suggested link with Islam sounds almost cynical, however, when one realizes that the Government of Iraq, constituted by the ruling and secular Arab Baath Socialist Party, evidently destroyed hundreds of mosques during the Anfal campaign.

92. The whole campaign, preparations included, is believed to have covered the period from March 1987 to the fall of 1988. The ostensible rationale for the Anfal operations was apparently to rid the country of real or potential subversives aligned with the Iranian enemy of the time. To achieve this objective, Ali Hassan al-Majid (member of the Revolution Command Council and presently Minister of Defence) was named Secretary of the Bureau for the Organization of the North in March 1987 and he evidently took command of the Anfal operations. According to the contents of Documents 9, 10 and 11 of Annex I, the policy was really put into place after the arrival of Ali Hassan al-Majid. The Special Rapporteur has received reports and personal testimony which confirm this. In particular, Document 9, which is interestingly dated 14 days after the above-mentioned letter confirming the joining of ranks of the Barzani and Talabani "groups", sets out the "procedure" to be followed in concern of "villages that are out of bounds for security reasons": as "operational zones", "all persons and animals" found therein were subject to unrestricted fire by troops while "sporadic bombardments, using artillery, helicopters and aircraft, at all times of the day or night in order to kill the largest number of persons" were ordered as was the execution of "all persons captured ... between the ages of 15 and 70 ... after any useful information has been obtained from them". These sweeping instructions, well beyond any judicial control, granted licences to kill (and apparently guaranteed impunity thereafter) to a vast breadth of Government agents according to the list of institutions and offices to receive copies of the instructions as noted at the bottom of Document 9. Moreover, it is clear from Documents 9, 10 and 11 that Ali Hassan al-Majid maintained strict control over these operations insofar as his "approval" was required even for certain specific actions. In this regard, Document 11 is telling for two reasons: the "consent of valiant Comrade Ali Hassan al-Majid" was required for the demolition of "villages which pose no security threat", with the exception of "villages from which shots are fired at military convoys or which are used by subversives to attack government installations and defy the State".

93. The early preparatory phase of the Anfal operations appears to have run until 21 June 1987 and is referred to in one document in the possession of the Special Rapporteur as the "first stage". During this stage, the so-called process of "village amalgamization" took place; Document 9 of Annex I announces that the "deadline for the amalgamation of these villages expires on 21 June 1987". In the course of events, and according to testimony made more credible by the remains of destroyed villages and the present existence of so-called "amalgamized" or "collective" villages, many Kurdish villages were destroyed and their inhabitants relocated to such villages. Reports on chemical attacks during this stage have also been received: in particular, the villages of Balisan, Sheikh Wasan and the area near Qaradagh were reportedly attacked with chemical weapons. According to information received from some survivors and also information attributed to medical personnel in Arbil, the wounded victims of Balisan and Sheikh Wasan were denied medical treatment.

94. During the "second stage" in the preparations of the Anfal operations, which appears to have begun on 22 June 1987, it would seem that even more destructive instructions were announced. Following the "procedure" laid out by Ali Hassan al-Majid in Document 9, as supported by other documents in the

possession of the Special Rapporteur, all human and animal life from the so-called "prohibited villages" was removed from thousands of villages which were destroyed. As a result of these procedures, human rights violations of the worst kind and on a massive scale were reported to have occurred without the provision of any form of legal process and without taking measures to protect the innocent.

95. At the same time, and as part of the Anfal operations, "advisers and troops of the National Defence Brigades" (often referred to as 'Jahsh', i.e. Kurds collaborating with the Government) were allowed to retain everything seized by them from the villages, with the exception of heavy, mounted and medium weapons (Doc. 9 of Annex I). Documents in the possession of the Special Rapporteur show that this practice was not restricted to the Anfal period. One document in particular, a Revolution Command Council Decree signed by Ali Hassan al-Majid, forbids courts from hearing lawsuits against Jahsh who tracked down deserters and instructed the courts to close any such files. This kind of favouritism was clearly part of a general policy of the Government to favour people who cooperate with the regime above people who do not. In this connection, the seemingly trivial Document 7 of Annex I, dated 2 February 1986, and concerning a Government employee who is refused an extension of his holiday because he does not want to become a collaborator, demonstrates how the Government effected controls over the population down to the pettiest of pressures.

96. According to numerous accounts received by the Special Rapporteur, the main Anfal operations with large-scale military attacks began in early 1988. In February-March of 1988, heavy chemical attacks were reported. In the town of Halabja, thousands of persons are said to have been killed by a chemical attack on 16 March 1988 (A/46/647, paras. 22, 23 and 74-75). Many attacks were reported to have followed in various districts of the northern region, as corroborated by the files of cables on "Anfal" and "purification" or "cleansing" operations which are in the possession of the Special Rapporteur.

97. After careful examination of testimonies, forensic reports, and consideration of numerous documents, the Special Rapporteur believes the following violations took place on a large scale during the Anfal campaign:

(a) Mass summary and arbitrary executions of thousands of civilians, often men. For example, sometimes people were executed on the spot as happened in the village Koreme, where on 28 August 1988 a group of thirty-three men and boys were said to have been executed in earshot of their relatives; six persons survived the execution. Guided by the testimonies of some of them, a forensic team, composed of distinguished international experts in forensic anthropology and archaeology assembled by Middle East Watch and Physicians for Human Rights, examined the execution site and recovered 124 cartridge cases. The dead men had reportedly been buried in two mass graves which were later exhumated by the forensic team.

(b) Mass disappearances of tens of thousands of men, women and children of whom many are believed to have been executed. In this regard, the Special Rapporteur notes the thousands of names of disappeared Kurds which have been brought to his attention. The 36 cases of disappearance reported from the

village of Aziz Qadir in April 1988, which was destroyed by Government forces on 11 April 1988 according to Document 9 of Annex II, would seem to prove the specific link between Anfal and mass disappearances. The extremely high number of disappeared Kurds, in comparison with non-Kurdish Iraqi citizens, and the general pattern of violations (including mass executions and arrests) during Anfal as described in this section, give every day more credence to the Kurdish claim that a total of some 182,000 persons disappeared.

(c) Use of excessive force including chemical weapons: As appears from the file of cables on the "Third Anfal", many villages were "purified" and "bombed" before they were entered by Government troops. Some of these indiscriminate attacks in the Third Anfal are also corroborated by testimonies of survivors, who fled to the hills while their villages were being bombed. Survivors commonly described smells of garlic, apples and pesticides from the bombs which later affected their eyes, mouths and skin and made it difficult to breathe. According to the survivors of the village Birjinni, which was reportedly attacked on 25 August 1988, four persons died from the chemical attack and the bodies of two of them were subsequently exhumed by the forensic team mentioned above. Soil samples taken from the area are reportedly being analysed.

(d) Systematic destruction of civilian property: The troops who entered the villages after the first attacks (often the National Defence Brigades or Jahsh) burned and destroyed the houses after having looted valuable property (see Annex II). In the case where the villages were still not completely destroyed, they would later be bulldozed and dynamited. The school and the mosque of the village of Birjinni were, for example, destroyed by explosives according to an archaeologist participating in the forensic team mentioned above. In total, thousands of villages, including schools, mosques and hospitals, were destroyed. Crops and farmland were also destroyed, as Document 9 of Annex I instructed. In some areas, landmines were placed to ensure the land was inhabitable.

(e) Arbitrary arrest befell virtually all persons found in the operational zones, of whom virtually all were residing in their village homes and on their traditional lands. People who were able to escape from the villages during the attacks were frequently later captured in the dragnet formed by the pincer movement of the Army (see Doc. 6 of Annex II).

(f) Arbitrary detention occurred on a massive scale, often in conditions of extreme deprivation. Women, children and the elderly were often removed to special guarded camps after having been separated from the men. In this connection, Document 14 of Annex I, dated 18 March 1988, describes an order emanating from the Office of the President of the Republic instructing the setting up of "special guarded camps" for the "families of subversives", which coincides with detailed reports received of disappearances in the spring of 1988. Document 9 of Annex II also refers to "village inhabitants" who are said to have been "evacuated to a specially prepared camp". Thousands were kept in such camps for months without judicial order or review or, in fact, any legitimate cause. Many were sent to the notorious prison at Nugrat Salman

(a prison in the south of Iraq) where people reportedly had to live on rations of three pieces of bread a day, and where hundreds are believed to have died of malnutrition, dehydration or disease.

(g) Forced relocation: Villagers who survived the chemical attacks or the heavy shelling and were captured by the Army were reportedly trucked away to collection centres. There their names were often registered and men and women were separated. Within a few days, the men were often trucked away to unknown destinations. Women, children and the elderly were taken to special camps. Upon their release, they were abandoned in remote areas in Kurdistan without any compensation for their destroyed property or any assistance. They were forbidden to return to their villages, which in many cases no longer existed.

98. Perhaps the most alarming aspect of the Anfal operations was the fact that so many violations were committed against innocent families. The Special Rapporteur is in possession of many documents which seem to corroborate the allegations on systematic violations committed against the families of "saboteurs" or "subversives" during the Anfal operations. Documents 10 and 14 of Annex I make explicit references, with Document 10 (issued by the Arab Baath Socialist Party) instructing the internal expulsion of "families of subversives". One source, after systematic surveys of the region, calculates that 219,828 families were internally expelled or deported. Punishing families for the alleged, inferred or imagined crimes of their relatives is, however, also reported before and after the Anfal period, as demonstrated in various documents in the possession of the Special Rapporteur, including Document 6 of Annex I.

99. Although the Anfal campaign is believed to have ended after the official announcement of an amnesty on 6 September 1988, information has been received on Anfal-like operations after that date. At the beginning of September, orders had been given to tighten the economic blockade on the region according to Document 15 of Annex I. In the same month, according to an alleged escapee, some 180 men were executed in the desert west of Kirkuk and Dibis. On 11 and 14 October 1988, chemical attacks were reported in the governorates of Kirkuk and Sulaimaniyah. According to Document 16 of Annex I, of 17 October 1988, "groups of subversives" were said to have been active "during and after the final Anfal operation". In this connection, the Document informs, the President reportedly issued the order that "diligent and unconventional action must be taken to liquidate any pocket within the Northern Region". That there were still security and economic restrictions imposed on those who benefited from the amnesty becomes clear from Document 17. Reports on Kurds who disappeared after the amnesty seem to be corroborated by these instructions. In June 1989, Government forces apparently destroyed the town of Qal'a Dizeh, east of Dukan lake. It has been reported that the inhabitants were forcibly relocated to complexes around Ranya.

(d) Continuing violations

100. The Government of Iraq, vehemently protesting against the economic sanctions imposed by the international community subsequent to Iraq's aggressions against the State of Kuwait, continues its internal blockade on the import of food, fuel and medicines for the Kurdish region. Since the fall of 1991, when Iraq withdrew all its civil services and withheld the salaries of civil servants and pensions in the fall of 1991, Iraq has left the people of the region without essential services and resources for survival (see Chapter I above, together with E/CN.4/1992/31, paras. 104-105 and A/47/367/Add.1, paras. 24-31).

101. Left in a vacuum, the Kurds have somewhat successfully endeavoured to create their own social and political framework. They also took precautionary measures (dried fruit and cut trees) for the winter, foreseeing a harsh period due to the "double embargo" of the internal economic blockade imposed by the Government of Iraq and the sanctions imposed on Iraq by the international community. At the end of 1992, the Kurds became even more economically isolated when the Kurdish Workers Party in neighbouring Turkey imposed an embargo without humanitarian exceptions for some months. This situation was referred to by the Kurds as the "triple embargo".

102. Thus, the Kurds have become dependent on international assistance. Aid from the international community for the Kurds, however, was refused by the Government of Iraq when the Government did not agree to renew its Memorandum of Understanding with the United Nations in July 1992. Only on 22 October 1992 did the Government of Iraq agree to a new Memorandum of Understanding (MOU) in which both the Government of Iraq and the United Nations recognize the need for a humanitarian programme "to alleviate the suffering of the affected Iraqi civilian population throughout the country".

103. Article 6 of the MOU stipulates: "In this context, the Government of Iraq shall cooperate in granting United Nations field staff safe and unimpeded access, by air or by road as necessary, to facilitate the implementation of the Programme". With regard to Iraq's obligations to ensure the safety and security of the operation and the personnel involved, the Special Rapporteur has been informed of the many difficulties United Nations staff have encountered in getting, for example, travel permits and especially the escalation of serious incidents involving the security of United Nations aid convoys and personnel during the implementation of this programme in the territory of Iraq. For example, on 29 November 1992, six trucks were damaged by explosive devices, on 7 December 1992, time bombs were discovered on six trucks, on 16 December 1992, 10 trucks were damaged by time bombs and another six devices were discovered. On 29 January 1993, a man in Dohuk was arrested carrying a magnetic time bomb with approximately 1 kg of explosives: according to the information received, the man claims that he had been instructed by the secret police of the Government of Iraq forces to place the device in one of the United Nations vehicles for a reward of 200,000 Iraqi Dinars. In this connection, the Special Rapporteur is disturbed by instruction B1 in Document 18 of Annex I in which "explosions" are mentioned as part of "strategic security operations".

104. With respect to the present humanitarian situation in the northern region, it is clear that if the Kurds had not saved some food and firewood for the winter, and if the weather had not been as mild as it has been this year, the uncooperative attitude of the Government of Iraq could have been disastrous. The Kurds might not, however, survive a second winter in these circumstances, since they have sacrificed many of their fruit-trees (especially in the vicinity of the cities) to gain firewood for the winter, which will deprive them of fruit in the future and firewood for another winter, to say nothing of the environmental disaster.

105. Aside from the prevailing humanitarian situation, the Special Rapporteur received detailed reports on military attacks in the Governorates of Arbil and Kirkuk by Government forces in the spring of 1992. Villages near the border of the Kurdish-controlled area were said to have been heavily shelled. The shelling reportedly intensified on 25 March 1992 on the collective villages of Khabat-Al-Jadeeda, Khabat-Hangerouk, Aski-Kalak, Basherian, Chama Dubz, Zangool, Sufayah and Challouk. The attacks caused the flight of tens of thousands of people further into the Kurdish-controlled area and forced them to leave behind their homes and fertile agricultural lands on which the surrounding population heavily depended for its food supplies.

106. In terms of the most recent events, a most alarming incident took place on 22 January 1993 when a car-bomb in the city centre of Arbil exploded killing 11 and injuring 128 civilians; 10 shops were completely destroyed. Iraqi authorities are alleged to be responsible for this attack which was reportedly preceded by several smaller bomb attacks on Kurdish targets. Several reports on a military build-up near the border with the three northern governorates have also reached the Special Rapporteur.

(e) <u>The problem of the mines</u>

107. In his report of 18 February 1992 (E/CN.4/1992/31, para. 101), the Special Rapporteur made reference to the problem of mines in the Kurdish area. Since that time, the Special Rapporteur has received additional information on this subject which continues to adversely affect the population.

108. According to various sources, mine casualties have been a major problem in northern Iraq since mid-1991, after the withdrawal of the Iraqi Army, when many Kurds returned to their homelands and found them scattered with millions of land mines. In Sulaimaniyah governorate, a zone with heavy activities during the Iran-Iraq war, the Sulaimaniyah City Hospital alone reported some 1,652 cases of land-mine injuries from March to September 1991. In the spring of 1992, the UNHCR reported that the province of Sulaimaniyah counted an average of 600 mine casualties per month. By comparison, Dohuk reported 14 mine victims in April 1992 compared to four victims in January and February of that year; injuries reportedly increase during the spring when the snow melts and the devices are exposed.

109. Many of the injuries reportedly occurred while people were collecting firewood, herding livestock (often done by children), or trying to clear mines themselves in order to farm the lands. These are dangerous practices since

the majority of the minefields are not (or are not sufficiently) fenced or marked. Unfortunately, the civilian population simply does not have the resources to clear the mines safely.

110. In a systematic attempt to determine the extent of the problem, two non-governmental organisations (Middle East Watch and the Mines Advisory Group) surveyed 15 minefields on a field mission: 8 in the governorate of Arbil, 6 in Sulaimaniyah and 1 in Dohuk. Many mines appear to have been sown in a rather careless manner, without any mapping. The mines were often placed at random in areas regularly used by the civilian population to grow crops, to herd livestock or to gather firewood. Different types of mines, both anti-personnel and anti-tank mines, have been found of which the majority do not self-destruct. UNHCR has reported that a great percentage of the mines are lightweight, plastic mines which are not readily detectable by normal means. Since many minefields were created as a defence against attacks from Iran, the borderzone with Iran is especially heavily mined. However, during his January 1992 visit to the region, the Special Rapporteur also received information from witnesses who claimed that there were extensive minefields in non-war zones.

111. While the Iran-Iraq war ended in the summer of 1988, it would appear that the Government of Iraq has failed to undertake any programme to clear the mines, choosing simply to abandon the often arable lands regularly used by civilians. For example, the Kandibokidera minefield, near Eenay, was laid as a defence for Iraqi artillery. After the war ended, the artillery was removed but the minefield was left behind as laid.

112. In the present circumstances, the Kurdish population began clearing the mines - a dangerous practice given the careless way in which the mines had been laid and the lack of adequate knowledge on the part of the Kurdish civilians. It is clear that the mines are a considerable threat to the life and well-being of the Kurdish population who form a largely agricultural society. In addition, an extra burden to the Kurdish population are the survivors of mine accidents who need, often urgent, medical assistance which, due to the internal embargo and other government policies, is insufficiently available.

113. Beyond the evident humanitarian concern that the problem of the minefields presents, the Special Rapporteur also notes that, in some cases, the mines had been laid less with a defensive intention towards Iran and more to prevent the civilians from living and farming in their traditional ways. In this way, many civilians have had no choice but to move into the amalgamized villages built by the Government. In this connection, the Special Rapporteur draws attention to the Land Mines Protocol of 1981. According to this humanitarian instrument, measures should be taken to protect civilians from the effects of mines (art. 4 (2)(b)) while prohibiting the indiscriminate use of mines (art. 3 (3)).

3. Violations affecting the Ma'dan and others in the southern marsh area

(a) Introduction

114. The Special Rapporteur has addressed violations affecting the people of the southern marsh area, and particularly the indigenous Ma'dan people, in both parts of his interim report to the forty-seventh session of the General Assembly, as follows: A/47/367, paragraphs 7-16 and 28; A/47/367/Add.1 paragraphs 18-23, 34-35, 45, 53 (e) and 56. Since the submission of his last interim report, the Special Rapporteur has continued to receive allegations describing a deteriorating situation of human rights affecting the people of the southern marsh area. According to this information, the Government of Iraq is allegedly pursuing a policy aimed at subjugating the local population through the combined effects of heavy-handed military operations (including indiscriminate bombardment of civilian residences, arbitrary arrests, arbitrary executions and terror campaigns), forced relocations, the alteration and effective destruction of the local environment, and an effective economic embargo. In response to these allegations, the Government of Iraq has offered either denials or attempted to justify its policies on the basis of legitimate security or police actions and modern economic development.

115. While the Government of Iraq has denied the allegations or attempted to justify its actions, the Special Rapporteur has continued to receive a steady flow of allegations of serious human rights violations. However, perhaps the most illuminating development has been the finding of an Iraqi Security letter and instruction (dated 30 January 1989 and describing instructions approved by the Supreme Commander and President of the Republic, Saddam Hussein) which sets out in no uncertain terms an entire "Plan of Action for the Marshes" which, if implemented, would constitute the gravest violations of human rights. This document (which is reproduced as Document 18 of Annex I) was recently found by researchers cataloguing and analysing the above-mentioned 14 tons of Government of Iraq documents captured by Iraqi Kurds during the March 1991 uprisings. With the corroborative value of this document, and seen in the light of the Special Rapporteur's possession of a video-cassette showing the present Prime Minister instructing generals to "wipe out" certain tribes (A/47/367 para. 8), video-cassettes showing widespread destruction of marsh area villages and habitat, the fact that the described "Plan of Action" and reported events mirror the Government's Anfal operations in the Kurdish northern area (see above), reports that the present military actions in the south of Iraq are under the direction of Ali Hassan al-Majid who previously directed the Anfal operations, the admission of the Government of Iraq that it has in fact been pursuing large-scale "police" actions and "development" projects, and the refusal of the Government to allow human rights monitoring, the Special Rapporteur feels compelled to give considerable credence to the allegations reported below.

(b) Violations of civil rights

116. The most immediate violations of human rights affecting the inhabitants of the southern marsh area during the past year have been the military attacks on the region, which included indiscriminate aerial and ground bombardment of

civilian settlements. These attacks (which conform with instructions B.6 and B.11 of the 30 January 1989 "Plan of Action" reproduced in Doc. 18 of Annex I) apparently intensified following April 1992 when the authorities issued orders to the local population to evacuate the region. Activities were most intense during July and August, and particularly during the holy festival of 10 Muharram (11 July 1992) which commemorates the martyrdom of Imam Hussein, when villagers were reportedly assembled in religious observance and thereby suffered casualties in large numbers. As explained above in the Introduction to this report, the events of July 1992 gave impetus to part one of the Special Rapporteur's interim report to the General Assembly (A/47/367).

117. While international concern for the plight of the people living in the marshes culminated in the implementation on 27 August 1992 by the international coalition of an air exclusion or "No-Fly Zone" (NFZ) forbidding Iraq from operating aeroplanes and helicopters south of the 32nd parallel, reports indicate that the NFZ has halted the aerial bombardment but afforded no further protection to the affected population. Between 28 August and 4 October 1992, it is alleged that there were repeated, intense artillery and mortar attacks on villages and towns in the vicinity of al-Amara, al-Nassiriya and Basra. Among the tactics attributed to Government forces were long-range heavy artillery shelling from Army bases in the area followed by ground force attacks on villages resulting in heavy casualties and the widespread and indiscriminate destruction of civilian property including homes and livestock. In the areas accessible by foot, there have apparently been "search and destroy" missions which forced people out of their homes, which were then flattened and burned, because they were suspected of having aided "criminals" or "deserters". The Special Rapporteur has also received allegations of the emplacement of underwater mines in the waters at the edge of the marshes, which have caused many injuries and cost many lives, especially to those attempting to get into the area to bring supplies to the population stranded in the region.

118. The ground attacks which have reportedly occurred since the establishment of the NFZ have allegedly been accompanied by an increase in the activity of security forces in the region, of the kind described in instructions B.1, B.2 and B.3 of the 30 January 1989 "Plan of Action". While the Special Rapporteur had received earlier reports relating to a "campaign of mass arrests" which was said to have begun on 25 March 1992 from a base in Amara (reportedly under the direction of Saddam Kamil, Director of Party Intelligence), reports received after 27 August 1992 allege that large numbers of persons have been rounded up in the southern cities and towns and have been transferred to unknown destinations. Some reports suggest that the NFZ has been used by the Government as an excuse to intensify Security Force activities, with additional check-points placed between and inside cities in the region, leading to a large number of arbitrary arrests. Allegations exist that a terror campaign is being waged in the region in order to track down participants of the March 1991 uprisings. One report indicates that many citizens have been blackmailed or terrorized into accusing neighbours of "offences". The existence of secret prisons and detention centres has also been reported, as have been incidents of torture to extract confessions or intimidate others. One particular wave of arrests was reported to have taken place during the second week of October 1992 when many civilians were

allegedly taken to the Headquarters of the Fourth Army Corps in al-Amara where they were interrogated. Some were said to have had to make cash payments in order to obtain their release.

119. Extremely disturbing allegations of mass executions have been received. In a policy reminiscent of the Anfal operations conducted against the Kurds in the late 1980s (as described above), detainees from the south have reportedly been transported in groups of up to 200 at a time to "death camps" in the north where they were executed. According to one report, one such "death camp" is located at Deebka near al-Sharqat, which is around 110 kilometres south of Mosul. A large number of persons from al-Kebaysh marsh (Nassiriya) were said to have been transported to an Army camp 20 miles south-west of Arbil, close to the Kurdish-controlled area. In another report, it is claimed that death camps holding hundreds of marsh area inhabitants are located in Makhmour (Arbil) and al-Hawija (Kirkuk). Allegations of mass executions in the area have been corroborated by reports from local farmers in the nearby Kurdish-controlled area who claim to have witnessed the arrival of busloads of people displaying the features common to the people of southern Iraq; gunshots were heard during subsequent evenings.

120. Aside from these direct acts against the local population, there are reports of Security Force members infiltrating marsh communities disguised in local dress, placing different tribal leaders in charge of designated areas, providing some with arms and encouraging tribal disputes in a policy aimed at fragmenting the communal relations of the Ma'dan people. This particular "divide and rule" policy (which would conform with the last part of instruction B.8 of the 30 January 1989 "Plan of Action") reportedly led to 2,000 deaths in the fall of 1992.

121. The Special Rapporteur has also received reports of families in the marshes being offered sums of money to leave their homes. However, those who have accepted the offer have apparently had their livestock and their crops taken from them and have then been placed in controlled collective settlements (apparently called by the Government "model villages") with no means of making a livelihood. These reports are in keeping with the allegations of forced relocations referred to by the Special Rapporteur in his last report to the General Assembly (A/47/367, para. 13) and explicitly referred to in instruction B.9 of the 30 January 1989 "Plan of Action".

(c) Destruction of the environment

122. In addition to repressive measures by the Government aimed at forcing the population out of the marshes, the survival of the centuries-old traditional communities are under further attack by the Government's water diversion and drainage programme known as the "Third River Project". While the Special Rapporteur notes that the idea of a Third River has been in existence since the 1950s (when it first emerged as a means of desalinating some of the land between the Tigris and the Euphrates and hence rendering such land cultivatable), reports indicate that a further motivation was added during the Iran-Iraq war, namely the provision of a secure route for ships to inland ports since the Shatt al-Arab had been under attack by Iranian forces. In the aftermath of the March 1991 uprisings, however, it would appear that a third

objective emerged: the subjugation of the local population in an effort to eliminate "deserters", "criminals", "subversives" and "hostile elements" (and all those who might aid them) who could seek refuge in the marshes and among the local people. Hence, what was originally to have been a "side-effect" of a mammoth "development" project conceived in the 1950s evidently became an end in itself in so far as it would deprive the thousands of "criminals" the natural cover of their refuge while the resulting migration of people out of their homelands would deprive the "criminals" of their shelter. Ultimately, the Government would be able to extend its strict control over a region it had previously never been able to dominate due to its relative inaccessibility.

123. In physical terms, the Third River Project is reported to consist of a 565 kilometre canal which runs from al-Tharthar Lake in western Samara to Kawr Abdullah in the Persian Gulf, together with various other projects involving the construction of huge embankments along rivers and tributaries to cut off the flow of water from the marshes (the "River Banks Project"); the construction of earth barricades which divide up the area into plots in which water will pool up and then can be drained in manageable volumes using pumps (the "Division of the Marshes Project"); and through the construction of another canal ("the Fourth River Project") which takes water from the Gharaf river which supplies the marshes. In this connection, the Special Rapporteur is in possession of detailed maps which are said to have been found with an Iraqi engineer working on the Project who further claims that the present project is commonly known in Government circles as "the Third Anfal", which gives rise to great concern for the fate of the marsh inhabitants.

124. Setting aside any discussion of the underlying aims involved, the effect of the drainage project has been to significantly reduce the water level throughout the southern marsh region such that the local population in some places have had to resort to the digging of wells to obtain sufficient potable water. The environmental impact is obviously huge, as a whole unique ecosystem is evidently being destroyed and the ancient lifestyle of the local people done away with. As the soils dry out, reeds and bamboo have been dying which deprives the tribespeople of their source of construction material, fuel and food for their livestock. Dry or shallow waterways have obstructed the local means of transportation, rendering the traditional "mashhoof" boats useless and stranding some of the population. The self-sufficient agrarian and fishing traditions of the Ma'dan are in extreme danger as large numbers of fish have reportedly been dying as a result of the falling water levels whereby free-flowing water drops to form stagnant pools in which poisonous algae grow and release their toxins. Therefore, in addition to being deprived of food, fuel and construction materials, the water supply for drinking, for livestock, for agriculture (mainly rice), and also for hospital and medical use has become contaminated.

125. Coupled with the "natural" environmental damage caused by the draining of the marshes, there have been reports of a deliberate acceleration of the destruction of the environment by Government forces. Army forces are said to have burnt reed-beds and green areas, and deliberately poisoned the marsh water. Witnesses point to the greenish colour of the water, "black spots" on the surface, its bitter taste and the volumes of dead fish as proof of some kind of poisoning. However, as it has not been possible for anyone to conduct

a scientific analysis of the marsh water, it is unclear whether these phenomena result from deliberate chemical poisoning, the pumping of sewage waste into the marshes, or simply the drop in water levels. However, irrespective of the cause, the water which remains in the depleted areas of the marshes has reportedly become contaminated and is unfit for human or animal consumption.

126. In his last report to the General Assembly, the Special Rapporteur called for a moratorium on the construction work which was then under way (A/47/367, para. 28). However, in part two of the same report, he noted with regret that in the face of the apparently completed project (of which the leadership of Iraq triumphantly claimed success) his call had been surpassed by events. Still, the Special Rapporteur maintained (and yet maintains) it was not too late to consult the affected population about the next course of action or about appropriate compensation, according to the terms of the International Labour Organisation Convention 107 of 1957 concerning the Protection and Integration of Indigenous and Other Tribal and Semi-Tribal Populations in Independent Countries, which the Government of Iraq ratified on 16 July 1986. Unfortunately, the Special Rapporteur must report that there has been no evidence of the Government of Iraq's intention to act in compliance with its obligations.

(d) The economic embargo

127. As a spin-off of the drainage project, the constructed embankments and dams which are used to block off the water from the marshes are being used for the emplacement of troops encircling the marsh areas and to block supply routes to the marshes, further exacerbating the economic hardship of the region. In particular, the Special Rapporteur has received reports alleging that the Government has intensified its internal blockade against the region since the establishment of the No-Fly Zone. Some reports indicate that food and medical supplies have been moved north of the 32nd parallel, and hospitals in Basra and Nassiriya have been emptied. Reports claim that there is virtually no medical care available in the marshes, and that, in any event, little can be done without clean water, medicine and supplies.

128. In addition, it is reported that the monthly rations which are normally available to every Iraqi citizen have not been made available to those who remain in the marshes since the Government's announcement that they had accepted the Government's offer of rehousing in "model villages". The inhabitants remaining in the marshes are apparently no longer able to feed themselves as the environmental destruction taking place has removed local food sources and they are not able to purchase food due to the blockade. There have even been reports that Government forces are cutting down the date palms to remove the one remaining local source of food. In the light of other measures regarding the Ma'dan, it would seem that this is yet another means of forcing them out of their traditional homes and into the cities to be easily controlled by Government authorities.

129. Faced with the combined effects of indiscriminate bombardments, terror and the deterioration of their special environment, the population of the marshes has been left with little alternative but to move to settlements in

the cities, where their subsistence-level agricultural lifestyle is no longer appropriate. In the cities, however, cash reserves for the banks (controlled by the Government) have also reportedly been moved to Baghdad, with banks being allocated a limited amount of cash per day. In this connection, it is alleged that counterfeit notes are being distributed through the banks, which do not accept them back, placing further economic pressure on the affected population.

130. The Special Rapporteur notes that the existence of the severe economic embargo described above, which is denied by the Government of Iraq, coincides with the instructions appearing at B.8 and C.5 of the 30 January 1989 "Plan of Action".

4. Violations affecting the Shi'a

131. The Special Rapporteur has addressed violations affecting the Shi'a religious community of Iraq in his previous reports, as follows: A/46/647 paras. 50-51, 55, 92-94; E/CN.4/1992/31, paras. 118-127, 141, 143 (s), (t), (u) and (v), 144, 145 (g) and (h); and A/47/367/Add.1, paras. 49 (c), 51, 55 (q), (r), (s) and (t). Since the submission of these reports, the Special Rapporteur has continued to receive allegations describing discriminatory and repressive acts directed especially against the religious establishment of the Shi'a population. These allegations may be divided into acts interfering with the physical properties of the religious community, acts interfering with the clergy and its organization, and acts interfering with religious practices.

132. With respect to Shi'a religious properties, the Special Rapporteur noted in his February 1992 report the desecration and destruction of Shi'a holy shrines, notably the shrine to Imam Hussein at Kerbala, the shrine to Imam Ali at Najaf and the Wadi al-Salam cemetery in Najaf where Shi'a pilgrims from throughout the world have come to bury their beloved for over 1,000 years. While the Special Rapporteur surveyed the shrines in January 1992 and reported on the reconstruction efforts then under way, he has since been informed that the shrines of Imam Hussein and Imam Ali have been largely restored including their gold-leaf domes. However, the Special Rapporteur has recently received reliable reports that, other than the Government-administered reconstruction of the famous mosques, reconstruction of over 80 Hussainiyas, libraries and mosques in Kerbala and other southern cities has been denied by the Government, despite the willingness of the Shi'a religious community to finance the efforts. Indeed, in what would constitute a continuing desecration, it has been alleged that the courtyard inside the shrine of Imam Ali now provides space for various State security units while some other sites are reportedly being used as centres of interrogation. As a general allegation, the Special Rapporteur has been informed that many places of Shi'a worship have been converted into public halls, put up for sale or taken over by the Ministry for Religious Affairs and Endowments. In addition, the Government has apparently failed to respond to the requests of concerned families to rebuild the tens of thousands of graves which had been desecrated.

133. The Government of Iraq has also allegedly been interfering with the Shi'a religious establishment at all levels. Threats have reportedly been made to clerics in order to pressure them to appear in public to express their

endorsement of Government policies, while statements in support of Government policies in the Government-controlled press are said to have been falsely attributed to Shi'a clerics. In addition, it has been alleged that the authorities have planted persons among the religious establishment who are in no way qualified to perform the religious rites and ceremonies; it has been said that some can barely read or write.

134. As the period of Arab Baath Socialist Party rule has witnessed the marked decrease in the size and activity of the Shi'a religious community in the ancient cities (E/CN.4/1992/31, para. 120), so recent reports of violations have understandably focused on a few remaining religious scholars. Notable among these was the Grand Ayatollah Abul Qasim al-Musawi al-Khoei, on whom the Special Rapporteur has previously reported (A/46/647, paras. 38-40 and E/CN.4/1992/31, para. 120), who died on 8 August 1992. Aged 95, he had been in poor health for some time - a fact that was not helped by his effective arrest and detention on 20 March 1991 along with 105 family members and advisers who subsequently disappeared.

135. The death of the Grand Ayatollah has naturally raised the question of his succession. The Government of Iraq reportedly lost no time in using this as an opportunity to put forward its own candidate who would gain control of all al-Khoei assets and property in Iraq according to Shi'a custom. According to information which has reached the Special Rapporteur, the Government of Iraq has attempted to control the selection process through making visas for non-Iraqi theology students and teachers conditional on their acceptance and endorsement of the Governmental candidate. This tactic is said to affect around 200 Afghans, Pakistanis, Indians, Iranians and non-Iraqi Arabs who have spent most of their lives in Iraq and risk being forcibly separated from their families and losing their possessions. Such interference in the religious establishment of the Shi'a community strikes at the core of the freedom of religion in so far as it denies the community the right to freely organize and administer its own affairs and, especially, choose the personalities in whom religious authority is placed.

136. As the spiritual leader of the Shi'a religious community in Iraq, and revered around the world, the death of the Grand Ayatollah was more than a clerical or organizational matter. According to Shi'a tradition, the death of the Grand Ayatollah would normally be commemorated with a large funeral with pilgrims attending from all over the country and from abroad, while vigils would be held in other cities. However, the Special Rapporteur has been informed that the Government of Iraq did not allow the Grand Ayatollah a proper funeral and burial service, but pressured his family to rush his burial. Moreover, the city of Najaf (on the edge of which the Grand Ayatollah lived) was reportedly shut off to outsiders and pilgrims were turned back at check-points in order to ban followers from mourning. Martial law was reportedly declared in Najaf on 9 August 1992.

137. Throughout Iraq, Shi'as were reportedly not allowed to hold functions to commemorate the Grand Ayatollah's death; only in Najaf was a "Fatiha" said to be held, and even this was conditional on it being held under the auspices of the Ministry for Religious Affairs and Endowments and not the deceased's family as would have been the tradition. In this connection, the

Special Rapporteur is aware that the Government-controlled press reported that large numbers were permitted to attend the funeral, but the Special Rapporteur has reliable reports to the contrary and is in possession of a photograph showing only a handful of mourners.

138. Aside from the afore-mentioned interferences in the private and communal rites relating to the death of the Grand Ayatollah, the Special Rapporteur has received allegations that the Government of Iraq continues to interfere with various religious practices. For example, among the public displays and religious celebrations which are said to be banned are the Shi'a call to prayer in the cities north of Baghdad such as Samara, Balad and Tuzkhormatoo, while they are said to be permitted in the southern cities only on a limited basis. Other arbitrary and discriminatory restrictions affecting the Shi'a community include: the Government's apparent refusal to broadcast Shi'a religious programmes on the Government-controlled radio or television; the banning of Shi'a books - that is all those which do not conform to the official interpretation approved by the Government of Iraq - such as even a simple prayer book; and the prohibition of processions and public meetings commemorating Shi'a holy days. In connection with the last matter, it has been reported that Shi'a Muslims throughout Iraq have been banned for the past 10 years from commemorating Ashoura, which is the period during the holy month of Muharram (which last year corresponded to the month of July in the Gregorian calendar) reserved for commemorations of the death of Imam Hussein. Those defying the ban are apparently liable to arrest. In 1992, Najaf and Kerbala were reportedly sealed off during this period, and no visitors were allowed for the immediate period of Ashoura. The ban on these celebrations is said even to have related to private functions ("majlis") this year, although two small functions were reportedly permitted in Najaf.

139. Beyond the afore-mentioned interferences in the religious practices of the Shi'a community itself, it is reported that any expression of the Shi'a creed has been removed from public institutions and that public schools and colleges teach only the Sunni creed. It has also been alleged that the teaching of Arab and Islamic history has a decidedly anti-Shi'a bias and that Shi'a history is not recognized in public education. Discrimination against Shi'as in general has frequently been reported in terms of equal access to schools and jobs, most particularly in the vast public sector.

III. CORRESPONDENCE WITH THE GOVERNMENT OF IRAQ

A. Correspondence from the Special Rapporteur

140. In keeping with the practice established by the Special Rapporteur in his effort to conduct his activities with the utmost transparency, the following relevant letters are reproduced. These letters comprise the totality of the Special Rapporteur's correspondence with the Government of Iraq save for the following three communications from the end of July 1992: an initial letter formally re-establishing contacts once his mandate had been approved by the Economic and Social Council, a letter expressing concern over reports of serious violations in the southern marsh area (see the text of the letter

dated 29 July 1992, reproduced in the annex to A/47/367), and a note transmitting an advance copy of part one of his interim report to the General Assembly.

141. The following is the text of a letter, dated 21 August 1992, addressed to His Excellency, the Minister for Foreign Affairs of the Republic of Iraq:

> "The media reported today that the Government of Iraq has invited the Under-Secretary-General for Humanitarian Affairs of the United Nations Organization, Mr. Jan Eliasson, to see for himself the conditions under which the Shi'a population in the South is living. If these reports are correct, I take the liberty to ask you whether the Government of Iraq would be willing to consider more frequent visits to the area. More specifically, I am referring to the proposal I made in my recent interim report on the situation of human rights in Iraq, which was circulated as Security Council document S/24386, dated 5 August 1992, wherein I recommended the sending of a team of United Nations human rights observers to the region of the southern marshes. This team could then provide impartial and continuous information about developments in this area. I express the hope that the Government of Iraq will show its willingness to accept this proposal.
>
> "I also take this opportunity to remind you of my letter of 29 July 1992, to which I would be grateful of a reply at your earliest convenience."

142. The following is the text of a letter dated 25 September 1992, addressed to His Excellency, the Minister for Foreign Affairs of the Republic of Iraq (the "standard terms of reference for United Nations missions in the field of human rights" referred to in the third paragraph have not been reproduced):

> "I have the honour to refer to Commission on Human Rights resolution 1992/71, by virtue of which my mandate as Special Rapporteur on the situation of human rights in Iraq was extended, and respectfully request that I may visit the Republic of Iraq in the second half of November 1992.
>
> "With regard to the programme of my visit, it would be my intention to visit various parts of the country, including the north and the south. As on my previous visit, I would greatly appreciate audiences with certain Ministers of Government, including yourself. In addition, I would appreciate an audience with the President of the Revolution Command Council. In accordance with normal United Nations practice, I would also appreciate unrestricted access to all parts of the country and to such establishments, centres, compounds, buildings, documents, persons, etc., as may be deemed necessary for me to carry out my mandate, and to be accompanied by such United Nations personnel and necessary advisers as would be required for the fulfilment of my tasks. Of course, I continue to consider it of the utmost importance in the conduct of my work to have access to first-hand information and to be fully aware of the views of the Government of Iraq at all times in order that I may properly inform the General Assembly and Commission on Human Rights on the situation of

human rights in your country. In this connection, I appreciate the information your Government has thus far furnished me, and I look forward to receiving replies to those concerns which remain unanswered.

"Should the second half of November be acceptable to your Government, I will forthwith communicate the relevant details, specifying the composition of my delegation and the anticipated itinerary. In this connection, please find enclosed a copy of the standard terms of reference for United Nations missions in the field of human rights, which was already communicated to your Government prior to my previous visit."

143. The following is the text of a letter dated 7 October 1992, addressed to His Excellency, the Minister for Foreign Affairs of the Republic of Iraq:

"It has recently been brought to my attention that Said Mohammed Taqi al-Khoei, son of the late Grand Ayatollah al-Khoei, was detained for some hours by officials of the Iraqi Government on 23 September 1992 in Najaf. According to the information received, the Iraqi Government officials demanded that Mr. al-Khoei make certain public statements and pay a visit of appreciation to President Saddam Hussein in Baghdad. These demands have reportedly been accompanied by threats and intimidation from Iraqi security personnel.

"In view of Mr. al-Khoei's previous experience of having been forcibly brought to Baghdad and pressured to appear with President Hussein on Iraqi television after the March 1991 uprisings, and in the knowledge of the continuing disappearance of over 100 senior associates of the late Grand Ayatollah who were seen to have been arrested in Najaf in April 1991 at the same time that the Grand Ayatollah and his son Mohammed Taqi al-Khoei were brought to Baghdad, these reports cause me great concern about Mr. al-Khoei's personal safety and that of other remaining close associates of the late Grand Ayatollah.

"With regard to the above reports, I would welcome your comments. In the event that the above information should be correct, I would like to remind your Government in particular of its obligations under Articles 9, 18 and 19 of the International Covenant on Civil and Political Rights which concern, respectively, the right to liberty and security of person, the right to freedom of thought, conscience and religion, and the right to hold opinions without interference."

144. The following is the text of a letter dated 23 October 1992, addressed to His Excellency, the Minister for Foreign Affairs of the Republic of Iraq, in response to a communication delivered orally through the Secretariat by the Permanent Mission of the Republic of Iraq to the United Nations Office at Geneva:

"With reference to my request for a visit to Iraq in the second half of November, I understand that your Government would appreciate the specification of dates such that you may better consider my request. To this end, and keeping in mind the agenda of the present session of the General Assembly whereby it is anticipated that I shall present my

interim report on either the 23rd or 24th of November, I propose that the visit take place from Saturday the 28th of November through Tuesday the 8th of December 1992.

"The receipt of a favourable reply would be most appreciated as soon as possible so that a detailed itinerary may be worked out."

145. The following is the text of a letter dated 23 December 1992, addressed to His Excellency, the Minister for Foreign Affairs of the Republic of Iraq. The attached list of questions follows, while most of the documents referred to are reproduced in the annex to this report.

"Please find herewith photocopies of documents which have been brought to my attention. In so far as the nature and content of these documents give rise to serious questions about the activities of the Government of Iraq, I would welcome the response of the appropriate authorities. More particularly, I would appreciate receiving responses to the specific questions relating to the various documents as listed in the attached memorandum.

"In keeping with past practice, I shall ensure the publication of the response of your Government as part of my next report to the Commission on Human Rights. However, inasmuch as my report must be submitted for editing and translation before the end of January 1993, it would be necessary to receive your Government's response no later than Monday, 25 January 1993, i.e. in just over one month from now."

146. The following constitutes the list of questions which accompanied the above letter. Those documents, which are reproduced in the annexes to this report, correspond to the following questions: with respect to item I of the memorandum, see document 3 of annex I; with respect to item II of the memorandum, see the selected documents in Annex II; with respect to item III of the memorandum, see the following documents in annex II: 5, 6, 8, 9, 10, 11, 13, 14, 15, 16, 17, 19, 20 and 21 which correspond to the respective numbers 5, 27, 2, 1, 3, 10, 24, 6, 19, 4, 17, 15, 11 and 25 in the memorandum.

MEMORANDUM

I. With respect to the execution decrees, please indicate the specific crimes which gave rise to the death penalty and explain what is meant by "cases of a special nature".

II. With respect to the cables concerning "Anfal operation no. 3" in Qadir Karam district, April 1988, the following information is requested:

- Villages are said to be "purified", "bombed", "occupied", "searched", "burnt" and "destroyed". What was the purpose of this destruction?

- Please explain what is meant by the "purification" or "cleansing" of a village.

- What authority was invoked in "Anfal operation no. 3"?

- Please provide the legal definition for "Iran's agents" and "saboteurs".

- What is meant by "returning to the national fold"?

- What judicial process was used for determining "Iran's agents" and "saboteurs" from the innocent?

- Please indicate what steps were taken to notify and protect the innocent.

- What compensation was given for those who are innocent?

- Villagers are said to have been deported to a "camp set up for this purpose" (see: cable no. 10468 dated 11/4/88). Please specify the purpose. Please also indicate the exact location of the camp and provide a list of the names of all persons who were sent to that camp.

In regard to deportations in general, please provide a complete list of all persons deported internally or externally from the governorates Arbil, Sulaymaniyah, Dohuk and Kirkuk in 1988, indicating in each case the place to which they were deported.

III. With respect to the documents numbered 1 to 35, please indicate for each of them what authority was invoked and on what legislative and/or judicial basis instructions were given.

Some additional information is requested with respect to the following documents:

Doc.:

1. - Please provide the legal definition for "prohibited villages".

   - What is meant by the "grouping of villages"?

2. - Please provide the legal definition for "Salili Al-Khiyana".

3. - What was the purpose of the deportation of family members of "saboteurs" and where were they sent to?

   - Please provide the text of Revolution Command Council decree no. 677 dated 26/8/1987.

4. - Please indicate what is meant by "non-conventional efforts".

5. - Please indicate what steps the Government has taken to protect against the use of torture.

6. - Please indicate for what purpose relatives of "saboteurs" were sent to the "special camps" mentioned.

- What is meant by these "special camps"?

7. - Please indicate the specific reasons which gave rise to the confiscation.

9. - Please indicate the specific reason for which this person was killed.

- Please also specify to what legal process the person was subjected.

10. - What measures were taken to protect the innocent in villages which could reportedly be destroyed without the consent of Ali Hassan Al-Majid?

11. - Please indicate the specific reason for which this person was arrested.

- Please also specify to what legal process the person was subjected.

12.) - Please indicate the specific crimes of the relatives.
)
13.) - Please also specify to what legal process the person was
14.) subjected.

15. - Please indicate why the woman was reportedly not allowed to bury her husband in accordance with religious tradition.

16.) - Document 16, dated 9/9/1988, mentions that Government
17.) officials have to facilitate the return of families who fled to Turkey and that returning families will be given land to build on. Document 17, dated 21/11/1988, however, deals with the imposition of security and economic instructions on those who benefited from the Amnesty in September 1988. Please explain this policy.

18. - Please explain how the content of this document relates to the Amnesty announced in September 1988.

- What is meant by "severe punishment"?

19. - Please indicate the reason for this instruction.

21. - Please explain why these families reportedly had to be located.

- What is meant by "the complexes"?

24. - Please provide a list of persons executed in 1988 as a result of paragraph 1, sub 2, of this decree.

25. - Please explain why the military equipment reportedly included "chemical machinery"?

- What was encompassed by the term "machinery"?

26. - Please indicate what is meant by the "Anfal section" of the Baath party.

27.) - Please explain for what purpose information on deported
28.) persons was requested.

35. - Please explain the purpose of using "military force" against the family of a "saboteur".

147. The following is the text of a note verbale dated 7 January 1993, sent by the Secretariat, on the instructions of the Special Rapporteur, to the Permanent Mission of the Republic of Iraq to the United Nations Office at Geneva:

"The Secretariat of the United Nations presents its compliments to the Permanent Mission of the Republic of Iraq to the United Nations Office at Geneva and wishes to acknowledge receipt of the latter's note dated 5 January 1993 (ref. 7/4/S.R./05/93) which has been brought to the attention of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Iraq.

"With respect to the transmission of the communication dated 23 December 1992 from the Special Rapporteur to the Minister for Foreign Affairs of the Republic of Iraq, a copy of that letter, together with its annexes and the note of the Secretariat dated 24 December 1992, has been sent directly to its distinguished addressee through the related services of the United Nations. It is expected that the said documents will be in Baghdad on Friday, 8 January 1993, and will thereupon be delivered to the Ministry for Foreign Affairs.

"As concerns the Special Rapporteur's request for receipt of the response of the Government of Iraq, the Special Rapporteur has noted that, in view of the limitations of the United Nations language services and the anticipated schedule of the Commission on Human Rights, inclusion of the Government of Iraq's response within the Special Rapporteur's forthcoming report cannot be assured after 5 February 1993. This information is also being communicated directly to the Ministry for Foreign Affairs in Baghdad.

"In an effort to expedite the receipt of the Government of Iraq's response to the Special Rapporteur's communication, the Secretariat would like to inform the Government of Iraq that the text of its response may be deposited with the United Nations Iraq-Kuwait Observation Mission (UNIKOM) Liaison Office in Baghdad, whereupon United Nations services will ensure a prompt transmission to Geneva. This information is also being communicated directly to the Ministry for Foreign Affairs in Baghdad."

148. The following is the text of a note verbale dated 13 January 1993, sent by the Secretariat and relating to its previous note verbale on behalf of the Special Rapporteur, to the Permanent Mission of the Republic of Iraq to the United Nations Office at Geneva:

> "The Secretariat of the United Nations presents its compliments to the Permanent Mission of the Republic of Iraq to the United Nations Office at Geneva and has the honour to refer the latter to the Secretariat's note verbale dated 7 January 1992 (ref. G/SO 214 (72-1)) regarding correspondence from the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Iraq addressed to His Excellency the Minister for Foreign Affairs of the Republic of Iraq.
>
> "With regard to the direct delivery of the said correspondence to its distinguished addressee, the Secretariat would like to inform the Permanent Mission of the Republic of Iraq to the United Nations Office at Geneva that it was not possible to deliver the correspondence as anticipated due to the Government of Iraq's decision to close Habbaniya airport to all United Nations aircraft. However, the Secretariat would like to confirm that the correspondence was transported overland to Baghdad where it was delivered to the Ministry for Foreign Affairs on the morning of 12 January 1993."

149. The following is the text of a note verbale, dated 19 January 1993, sent by the Secretariat, on the instructions of the Special Rapporteur, to the Permanent Mission of the Republic of Iraq to the United Nations Office at Geneva:

> "The Secretariat of the United Nations presents its compliments to the Permanent Mission of the Republic of Iraq to the United Nations Office at Geneva and has the honour to refer to the latter's note dated 14 January 1993 (no. 7/4/SP/12) regarding correspondence from the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Iraq addressed to His Excellency the Minister for Foreign Affairs of the Republic of Iraq.
>
> "With regard to the direct delivery of the said correspondence to its distinguished addressee, the Secretariat would like to reconfirm that the correspondence was transported over-land to Baghdad where it was delivered to the Ministry of Foreign Affairs on the morning of 12 January 1993. Specifically, the delivery was effected in Baghdad by United Nations Movement Control Officer T. Jonsson who handed over the correspondence to the Ministry of Foreign Affairs in Baghdad at 0900 Baghdad time (0600 GMT).
>
> "With respect to the request of the Permanent Mission of Iraq for an extension of the period of reply to the Special Rapporteur's correspondence, the Secretariat advises that, upon further consultation with the Special Rapporteur and owing to the constraints of translation and publication, the Special Rapporteur would not be able to assure inclusion of a reply of the Government of Iraq within his report to the Commission on Human Rights should such reply be received after

5 February 1993. However, should the Government of Iraq reply sufficiently prior to consideration of the Special Rapporteur's report by the Commission on Human Rights, it would be possible to issue an addendum. In this connection, the Secretariat further advises that the schedule of the Commission's work will be decided by the Commission at the beginning of its forty-ninth session and the Permanent Mission of Iraq may wish to be in contact with the Secretariat regarding the deadlines resulting from that schedule."

150. The following is the text of a letter dated 5 February 1993, addressed to His Excellency, the Minister for Foreign Affairs of the Republic of Iraq. For reasons explained below, the attachment to this letter is reproduced in this report as document 18 of annex I.

"Please find herewith a photocopy of a document alleged to have originated in a Government of Iraq Security Office in January 1989. As with other similar documents which I communicated to your Government in December 1992, its content gives rise to extremely serious questions. As such, I would greatly appreciate receiving the views of your Government concerning this document.

"In so far as I only very recently received the above-mentioned document, I regret that it was not possible to have brought it to your attention with the other documents I sent to you in December 1992. However, given the gravity of the content of the document, I intend to bring it to the attention of the Commission on Human Rights. Of course, I do not wish to do so without having the benefit of the Government of Iraq's views. Consequently, I shall hold this particular document until 15 February 1993, in order to allow for a response from your Government, whereupon I intend to submit it as an addendum to my report to the Commission. This would be the last possible date for submission, and I would appreciate, therefore, receiving the response of your Government no later than 15 February 1993."

B. Correspondence from the Government of Iraq

151. As has been his practice, the Special Rapporteur reproduces here below the texts of correspondence from the Government of Iraq since the publication of the Special Rapporteur's interim report to the General Assembly (see document A/47/367/Add.1 at paragraphs 38 through 46 for the texts of earlier correspondence from the Government of Iraq, together with the Special Rapporteur's observations thereon at paragraphs 47 through 55). The Special Rapporteur remains committed to ensuring that the Government of Iraq has every opportunity to present its views.

152. By note verbale dated 23 November 1992, the Permanent Mission of the Republic of Iraq to the United Nations Office at Geneva transmitted the following telegram addressed to the Special Rapporteur from Mr. Mohammad Taqi al-Khoei of Najaf:

"Dear Sir,

We wish to inform you that our telegram addressed to President Saddam Hussein, as well as our visit to His Excellency, were entirely of our own free will and choosing. You can contact us personally to verify this fact.

(Signed)
Mohammad Taqi al-Khoei
Najaf"

153. The following is the text of the note verbale dated 5 January 1993, sent by the Permanent Mission of the Republic of Iraq to the United Nations Office at Geneva:

"The Permanent Mission of the Republic of Iraq to the United Nations Office in Geneva presents its compliments to the Centre for Human Rights, and with reference to the latter's note dated 24 December 1992 and its enclosure, the letter of the Special Rapporteur, Mr. van der Stoel, dated 23 December 1992, in which he requests Iraq's response to the enclosures of his letter at a date no later than 25 January 1993, has the honour to state the following:

"The Iraqi Mission received the Centre's note and its enclosures only yesterday 4 January 1993. It will not be possible for the Mission to deliver them in less than one whole month, due to reasons well known to the Centre and the Special Rapporteur amongst which is the non-existence of flights between Geneva and Baghdad, due to the air blockade imposed on Iraq. The Centre can probably coordinate with the competent side in the United Nations to arrange delivery of such correspondence with the United Nations mail which can be delivered by their own aircraft, and forward copies to the Mission for follow-up.

"The Special Rapporteur could have sent his queries and correspondence within a suitable time that takes into account the circumstances mentioned above, due to the fact that in sending the documents within this short period and notice, that makes response to the Special Rapporteur's request hardly possible, can only be interpreted as intentional, with known objectives, i.e. to place the Mission in an embarrassing situation with the competent authorities in Baghdad, and hold the Government of Iraq responsible for its failure to respond.

"The Mission, therefore, requests that this note be included in the Special Rapporteur's report after duly notifying him accordingly. It also requests that a suitable solution be found for this important subject.

"The Mission will be grateful if the Centre notifies it with the measures taken in response to this note.

"The Permanent Mission of the Republic of Iraq avails itself of this opportunity to renew to the Centre for Human Rights the assurances of its highest compliments."

154. The following is the text of the note verbale dated 14 January 1993, sent by the Permanent Mission of the Republic of Iraq to the United Nations Office at Geneva:

"The Permanent Mission of Iraq to the United Nations Office in Geneva presents its compliments to the Centre for Human Rights and with reference to the latter's fax note (G/SO/214(72-1)) dated 31 January 1993, has the honour to inform the Centre that the letter and its enclosures sent by the Special Rapporteur has not yet arrived to the Iraqi Ministry of Foreign Affairs as stated in the letter of the a.m. Centre. The Mission, therefore, wishes to indicate that the date set by the Centre in its note G/SO/214(72-1) dated 7 January 1993 requiring Iraq's reply to be notified on a date no later than 5 February 1993, in reply to the letter of the Special Rapporteur should be prolonged in order to allow time for the arrival of the letter to the competent authorities on the one hand, and provide the time for them to reply with regard to its contents.

"The Mission, therefore, requests the Centre to set a new date after making sure of the letter's arrival to Baghdad.

"The Mission of Iraq avails itself of this opportunity to renew to the Centre for Human Rights the assurances of its highest consideration."

155. The following is the text of the note verbale dated 5 February 1993, sent by the Permanent Mission of the Republic of Iraq to the United Nations Office at Geneva:

"The Permanent Mission of the Republic of Iraq to the United Nations Office in Geneva presents its compliments to the Centre for Human Rights, and with reference to the latter's note dated 24 December 1992 and its enclosure, the letter of the Special Rapporteur, Mr. Max van der Stoel, dated 23 December 1992, addressed to H.E. Mohammad Said Al-Sahhaf, Minister of Foreign Affairs of the Republic of Iraq, has the honour to enclose herewith the text of the reply of the Iraqi competent authorities in respect of the documents, allegedly issued by Iraqi authorities.

"The Mission requests the Centre to ask the Special Rapporteur to include the reply in his report to be submitted to the forty-ninth session of the Commission on Human Rights.

"The Mission of the Republic of Iraq avails itself of this opportunity to renew to the Centre for Human Rights the assurances of its highest consideration."

156. The reply of the competent Iraqi authorities, mentioned in the above note verbale, has the following text:

"We wish to state that a number of falsified documents has been disclosed by unknown circles with a view to undermining Iraq's reputation, as part of the political and media waged against it. Among those documents, are the ones we received in connection with the events which, basically, took place during the Iraq-Iran war up to the July 1988 cease-fire.

"It is well known that Iraq's eastern and north-eastern borders were scenes of military operations. It is therefore not possible to verify what went on during that period, especially with regard to activities of the saboteurs which were fully cooperative with the hostile Iranian military forces.

"As regarding the documents which were sent to us, with the allegation that they were official documents - which in fact are not - we wish to point out the following:

"1. Following the all-out aggressive war which was waged against Iraq on 17 January 1990, the American, British and French forces occupied vast areas in northern Iraq. By the force of weapons, the invading forces assisted the irresponsible elements and saboteurs in assuming control of the area. This foreign occupation of northern Iraq led to the absence of the State's official bodies. Government departments with all their stores of printing machines, stationery and official stamps bearing signatures of Iraqi officials fell in the hands of the saboteurs and American, British and French forces of occupation. Moreover, many officials, who worked in those departments, fell under the mercy of the saboteurs gangs and carried out their orders.

"2. All that has facilitated and will facilitate for the foreign powers, and the saboteurs under their command, to carry out large-scale forgery, including what has been so far disclosed of alleged documents, and which may be disclosed in the future.

"3. Furthermore, the violent and successive events which were imposed on Iraq, during the Iran-Iraq war or during the aggression perpetrated by the allied forces against Iraq, along with the control by the saboteurs of the northern area, and the preceding riots, have all inflicted damage and loss of most of the official documents in the northern area, rendering the competent Iraqi authorities unable to verify the validity of any information or claims requiring response."

157. The following is the text of a note verbale, dated 11 February 1993, from the Permanent Mission of the Republic of Iraq to the United Nations Office at Geneva:

"The Permanent Mission of the Republic of Iraq to the United Nations Office at Geneva presents its compliments to the Centre for Human Rights and with reference to the latter's

Note no. G/SO 214 (72-1) dated 5 February 1993, and its enclosure, the letter dated 5 February 1993 sent by Mr. Max van der Stoel to H.E. the Foreign Minister of Iraq, has the honour to inform the Centre that the reply of the Iraqi competent authorities which was forwarded to the Centre through the Iraqi Permanent Mission's note no: 47/93 dated 4 February 1993, covers the reply to the Special Rapporteur's note and its enclosure mentioned above.

"The Permanent Mission of the Republic of Iraq avails itself of this opportunity to renew to the Centre for Human Rights the assurances of its highest consideration."

C. Observations of the Special Rapporteur

158. In relation to the correspondence reproduced above, and recalling the previous exchanges of correspondence between the Special Rapporteur and the Government of Iraq, the Special Rapporteur continues to take note of both those matters on which the Government has chosen to respond and those matters on which the Government has so far chosen not to respond.

159. With respect to those matters on which the Government has so far chosen not to respond, the Special Rapporteur refers again to the long list of questions previously put to the Government of Iraq and which remain unanswered (for a list of some of those questions, see A/47/367/Add.1 at paragraph 55). In addition, and in regard to his formal request to visit Iraq - even specifying dates in response to a Government of Iraq request, the Special Rapporteur regrets the fact that the Government of Iraq has not seen fit to respond.

160. Turning to those matters on which the Government of Iraq has chosen to respond, the Special Rapporteur notes that a response to many matters raised in the summer of 1992 was offered in the Government's letter dated 5 October 1992, which the Special Rapporteur reproduced in his interim report to the General Assembly (A/47/367/Add.1 at paragraph 45). However, beyond this and one other subsequent response concerning the situation of a Shiah cleric in Najaf (see A/47/367/Add.1 at paragraphs 46 and 54), the Government of Iraq's written responses are limited to the contents of the five notes reproduced above.

161. With respect to the telegram from Mohammad Taqi al-Khoei communicated through the Permanent Mission of Iraq on 23 November 1992, the Special Rapporteur would like to refer to his previous comments on this case (see A/47/367/Add.1 at paragraph 54). While the Special Rapporteur notes the information contained in the telegram, he remains unconvinced of the free and voluntary nature of these actions in the absence of independent verification. In this connection, the Special Rapporteur finds it somewhat odd that the telegram from Mr. al-Khoei (who has family members, including his brother, still missing) was communicated through the Government of Iraq.

162. As concerns the second and third notes verbales from the Permanent Mission of Iraq, reproduced above, the Special Rapporteur finds it strange that the issue of communications difficulties should be raised at this point

and that, in any event, the Permanent Mission should require "one whole month" to deliver the documents. In fact, as was demonstrated by the United Nations Secretariat, and setting aside the obvious possibility of using fax machines or other modern communications techniques which the Special Rapporteur believes are available to the Permanent Mission, it was possible to deliver the documents to Baghdad in a few days via commercial air services to Amman and therefrom over-land to Baghdad. Surely, this possibility exists too for the Government of Iraq. Moreover, it is also to be noted that the Government of Iraq was able to respond in time. However, besides this technical question, the Special Rapporteur must state his categorical rejection of the accusation that he had intended to embarrass the Government of Iraq. Indeed, as soon as he was made aware that there was any difficulty, the Special Rapporteur gave instructions to the Secretariat to take any action to assist the Government of Iraq, as the correspondence clearly demonstrates.

163. In light of the fact that the Permanent Mission of Iraq to the United Nations Office at Geneva had raised the question of communications problems and had formally requested in its note of 5 January 1993 that the Secretariat seek other direct means of communicating with the Government of Iraq in Baghdad, the Special Rapporteur additionally finds it strange that his attempts to have his correspondence of 5 February 1993 delivered to the Minister for Foreign Affairs in Baghdad were subsequently thwarted by the refusal of the Ministry for Foreign Affairs in Baghdad to accept the direct communication. In this connection, the Special Rapporteur notes that his attempts, via the Office of the Coordinator of the United Nations Inter-Agency Humanitarian Programme in Iraq (in the absence of any office of the Centre for Human Rights outside Geneva and New York), to have the aforesaid correspondence delivered to its distinguished addressee were thwarted in Baghdad by its refusal by a variety of Foreign Ministry officials, including the Director-General for International Organizations, on the ground that the procedure for delivery was inappropriate. After these failed attempts, the Office of the Coordinator in Baghdad advised the Special Rapporteur by cable on 10 February 1993 that the Government of the Republic of Iraq would not accept the correspondence in Baghdad and had instructed that it be addressed to the Permanent Mission of the Republic of Iraq to the United Nations Office at Geneva, which the Special Rapporteur had, of course, previously done. Despite the Government of Iraq's rejection in Baghdad of the Special Rapporteur's correspondence of 5 February 1993 on a procedural basis, the Government of Iraq nevertheless responded through its Permanent Mission in Geneva, by note dated 11 February 1993, to the effect that it considered the document at issue to be false in keeping with its earlier statement regarding all "future" documents. Thus, obviating any further need to wait, and still having the possibility of including these texts in this report, the Special Rapporteur decided to forego his proposal for an addendum and accordingly chose to include the attachment to his letter of 5 February 1993 as document 18 of annex I in the present report and to render his considerations thereupon.

164. With respect to the substantive response of the Government of Iraq to the collection of documents submitted by the Special Rapporteur, it is evident that the logic of the Government's response is such as to negate the need to answer the Special Rapporteur's specific questions relating to the contents of

the documents. The evidentiary value of the documents has been questioned by the Government in terms of the authenticity of the documents themselves, which is to say that so long as the veracity of the documents is in doubt then there would appear to be no need to answer (and no logic in answering) the questions put by the Special Rapporteur. Consequently, it is necessary to consider the veracity of the documents.

165. The Government of Iraq simply rejects the documents as evidence in so far as it considers them falsifications. In explaining the existence of those documents presented by the Special Rapporteur, and without reference to any scientific arguments, the Government of Iraq asserts that the documents were falsified by "saboteurs" implicitly aided by "American, British and French forces of occupation". In a somewhat extreme argument, the Government of Iraq goes so far as to declare false not just those documents which have so far been disclosed but "any which may be disclosed in the future". Curiously, the Government of Iraq then concludes with point 3. of its letter of 5 February 1993 by arguing that it is in any case not in a position to verify the contents of such documents because "most of the official documents in the northern area" were lost in the course of recent events.

166. Before commenting himself on the nature of the documents in his possession, or those brought to his attention, the Special Rapporteur finds it worth noting the shortcomings in the Government of Iraq's attempt to dismiss the evidentiary value of the documents in question along with any others "which may be disclosed in the future". Above all, it is to be noted that the Government readily admits the "loss of most of the official documents in the northern area", which clearly establishes the fact that official documents did exist in the northern area and that it is therefore possible, if not probable, that someone else may be in possession of the documents which the Government acknowledges having lost. On the basis of this admission on the part of the Government, one would logically expect the Government to be able, if not willing, to assess the validity of documents potentially recovered in the northern area - at least, presumably, the ones it has admitted losing.

167. In terms of the dismissal of the specific documents at hand, the Government of Iraq has advanced the thesis that they are all forgeries. In support of this thesis, the Government argues that their falsification was made possible by the capture of Government "printing machines, stationery and official stamps bearing the signatures of Iraqi officials", and that the forgers were/are officials "who worked in those departments [and] fell under the mercy of the saboteur gangs and carried out their orders". Interestingly, this thesis would seem to conflict with the arguments put forward by the Government of Iraq in dismissing as "counterfeit" the documents presented by the Special Rapporteur in his previous report to the Commission on Human Rights (see E/CN.4/1992/31 at annex II): according to the speech presented by the representative of the Government of Iraq on 20 February 1992 before the forty-eighth session of the Commission on Human Rights, the documents were false because the stationery had fallen into "hands not qualified to use them" and one was "written in very bad Arabic". So, according to the Government, the documents are forgeries either because they are done well by able persons forced to make them, or because they are done poorly by unqualified persons.

168. For his own part, the Special Rapporteur is confident that the vast majority, if not all, of the documents so far having come into his possession or having been surveyed by him are authentic. This conclusion has been reached on the basis of the following considerations. First of all, the Special Rapporteur cannot help but be impressed by the huge volume of documents (literally in the millions) which had all been carefully compiled and maintained. While only a fraction of these documents have so far been analysed, it is clear that they are of such detail, complexity, consistency and complementarity as to make the prospect of forgery on such a scale a virtual impossibility. Their variety, nature and condition are also persuasive: for example, the documents include originals, photocopies, carbon-copies, telex sheets, notes, notebooks, charts, maps, photographs, typed documents, hand-written documents and notes, memoranda and letters with letterheads, and memoranda and letters without letterheads, some in perfect Arabic, others in less than perfect Arabic, some neatly kept, and others not in such good order, with many files dusty, well-thumbed, torn and even trampled upon (probably during the uprisings). Beyond this, the content of various documents seems frequently innocuous - just some record-keeping - while other documents present information that would clearly be damning of those who might be thought to be the "enemies" of the Government of Iraq. In other words, and viewed as a whole, to accept the Government of Iraq's argument that these are falsifications would be to accept a theory of conspiracy of an unparalleled nature concocted by an army of well-financed technicians who would not mind damning themselves occasionally. Moreover, the forgers would have to be brilliant in their cunning and care such that they could compose such detailed and complementary documents in the millions, supporting them with photographic and video evidence from time to time and messing them up at other times. This might be conceivable if there prevailed the best of conditions for doing so, but this is not the case: the predominantly Kurdish inhabitants of the northern area are struggling to survive, and they have neither the time nor resources to even consider embarking upon such a fantastic feat.

IV. CONCLUSIONS AND RECOMMENDATIONS

A. Conclusions as to facts

169. Before any analysis of a situation may be undertaken, any conclusions drawn or any recommendations offered, it is of course necessary to scrutinize the evidence advanced in order to establish the factual situation. It is the normal practice of a judicial enquiry to establish facts through the combined weight of testimony, documentary evidence and physical evidence. While the Special Rapporteur is completely aware that he has not been mandated to conduct a judicial enquiry, he has nevertheless endeavoured to employ standards of evidence of a judicial nature in order to achieve the highest degree of certainty in his assessments. Consequently, general reports and specific allegations of violations have been investigated with a discriminating eye on the supporting evidence and there has been a focus on obtaining corroborative evidence in the form of testimony, documentary evidence and/or physical evidence.

170. The methodology employed by the Special Rapporteur in attempting to establish and evaluate the factual situation was summarized in his first report to the Commission on Human Rights (E/CN.4/1992/31, paras. 146-149). Once again, the work of the Special Rapporteur in this regard has been facilitated by the receipt of testimony from victims and eye-witnesses of alleged human rights violations and by the presentation of an enormous amount of documentary evidence in the form of photographs, video-cassettes and especially written documents.

171. In terms of the credibility of the evidence presented to the Special Rapporteur, there exist both subjective and objective means of establishing their veracity. For example, in the case of oral testimony, there exist techniques of evaluating the testimonies in terms of logic, consistency with other stories from both similarly and dissimilarly placed persons, corroboration by other forms of evidence, etc. In many cases, however, there may only be the subjective evaluation of believing or disbelieving the witness. For obvious reasons, the Special Rapporteur has attempted not to rely on such testimony where it was unsupported by any other objective evidence. In the case of documentary evidence, however, there exist additional techniques to establish the veracity of the material. For example, beyond the convincing nature of the sheer volume, detail, precision, and complementariness of the written documents presented as evidence, there exist scientific means of authenticating written documents by establishing, e.g. the age of the paper and ink. While the Special Rapporteur has not yet resorted to such scientific techniques, he would welcome the opportunity to subject the evidence at hand to such techniques. This being said, it is to be noted that scientific techniques have been employed in connection with some information presented to the Special Rapporteur, such as the results of forensic investigations of mass graves in the northern area of the country and medical reports establishing the truth of allegations that persons were the victims of thallium poisoning. Such scientific assistance would most probably also be of use to the Special Rapporteur in the future.

172. While the Special Rapporteur has already commented on the nature and quality of the documentary evidence in his possession, a specific example of a documentary "find" may be useful. In the case of document 18 of annex I, the document was found in a file marked "The Iraqi Republic, Started on 3/7/1989, Administration: The Fifth Section, for the year 1989". Aside from the reproduced document, the file contains reports concerning security issues throughout the country, including internal and regional threats such as: reports on the activities of opposition groups outside the country, together with security analysis and directions; reports on the activities of the intelligence agencies of neighbouring countries; reports on persons trained in neighbouring countries to carry out subversive activities in Iraq; security directives concerning the surveillance of certain categories of people; and security instructions concerning activities directed against subversive groups and individuals.

173. In general, the Special Rapporteur remains confident of the quality of evidence on the basis of which he has assessed the allegations of human rights violations, and upon which he draws his conclusions and recommendations. In keeping with his past practices, the Special Rapporteur has again acted

cautiously in rejecting some evidence advanced in support of certain allegations; while not prepared to declare certain testimonies false, it has sometimes been hard for the Special Rapporteur to believe the alleged depravity of behaviour attributed to agents of the Government of Iraq. At the same time, it is again to be reported that certain persons declined to present potentially valuable testimony because they remain afraid that they or their relatives might suffer reprisals as a consequence, despite the Special Rapporteur's assurances of anonymity and despite the fact that most of these persons are far outside the territory of Iraq. In assessing the quality of information, therefore, the Special Rapporteur has essentially relied on unambiguous, consistent and corroborative evidence and the absence or inadequacy of the responses from the Government of Iraq.

174. With respect to the responses of the Government of Iraq and its arguments of denial of facts, imputability or responsibility, the Special Rapporteur has previously referred in specific terms concerning specific issues (e.g. concerning the situations in the northern and southern regions, see A/47/367/Add.1, paras. 32-37) and refers in this report to related matters of sovereignty and responsibility (see, respectively, chapter I, section B above and section B below). However, in so far as the Government of Iraq disputes the veracity of virtually all of the evidence presented in support of the factual situation as seen by the Special Rapporteur, it is worth repeating that the Government of Iraq's simple rejection of voluminous, precise and consistent documentary evidence is untenable.

175. Beyond his assessments of individual pieces of information relating to individual allegations of violations, the Special Rapporteur has endeavoured to assess allegations of violative policies through the logic of both deduction and induction. In the case of the existence of laws or general factual situations, it has been possible to deduce the existence of individual violations (beyond the laws themselves) as alleged and as supported by evidence. For example, such was the case for the existence of discriminatory procedures affecting the property of Turkomans (E/CN.4/1992/31, paras. 116 and 145 (n)) or would be the case for a policy aimed against the people of the southern marsh area as supported by the number and variety of specific allegations of serious violations, the existence of a document attributed to the Government of Iraq which sets out a violative policy, the existence of a video-cassette recording the current Prime Minister giving such instructions and the existence of certain other confirmations. In fact, even without the aforementioned document, the logic of deduction leads to the same conclusion inasmuch as there is a complex of evidence comprised of the following: very detailed allegations, absent inherent contradictions and consistent with other detailed allegations; compatibility of the allegations with larger known facts independently confirmed; corroboration by documentary evidence in the form of video-cassettes and written documents including maps; consistency of the allegations with other historical actions of the Government, e.g. similarity with previous operations in the north; compatibility of the allegations with the Government's arguments in the form of excuses such as legitimization of actions as acts against "criminals"; the absence or inadequacy of other Government responses; and the refusal of the Government to admit verification by independent monitors unrestricted in their movements and present over time. In sum, the growing body of evidence juxtaposed with the growing inadequacy of

Government responses, especially the refusal to accept human rights monitors, prejudices the quality of the Government's denials and excuses and adds to the credibility of the allegations.

176. Given the described methodology and considerations made above, the Special Rapporteur attaches a high degree of credibility to the majority of the allegations summarized in chapter II of this report. The Special Rapporteur does not hesitate to conclude that there have been and continue to be human rights violations of the gravest nature and on a massive scale. Many of the violations affect the population as a whole, or at least those outside the favour of the ruling Arab Baath Socialist Party and the inner circle of the ruling elite. Moreover, most of the violations occur as a result of policies which are intrinsic to the present totalitarian order of government. Consequently, it would be difficult to imagine how the present Government, which relies so heavily on fear and crushes even potential opposition to secure its power, could institute changes which would bring it somewhat closer to compliance with its international obligations. This might explain the absence of any discernible improvement in the situation of human rights in Iraq.

177. With respect to the violative policies against the rights of ethnic and religious communities in Iraq, the notable lack of interest in changing these policies largely explains, in fact, the occurrence of the violations in the first place. To be sure, the Special Rapporteur has no doubt that there is widespread discrimination against and oppression of various groups. Such violations are effected through a variety of means, but for one overriding reason: the present order of government in Iraq tolerates no real opposition. While the Special Rapporteur may observe that there is essentially no predisposition within the order of government to be specifically against any particular group, although the Special Rapporteur has noted a basically racist tendency against the Ma'dan population (A/47/347/Add.1, para. 21; E/CN.4/1992/31, para. 126), it is clear that widespread violations against certain groups occur because of the combination of an extreme chauvinism and an extreme intolerance. The chauvinism in this case is a feature of the monopoly of truth claimed by the ruling Arab Baath Socialist Party which is, moreover, dominated by a minority Sunni Arab population rooted in the central part of Iraq. While the socialist nature of the Party has theoretically distanced itself from religious bias through a commitment to secularism wherein "religious" designations are understood more as historical or cultural affiliations rather than matters of actual practice, the inherent logic of the pro-Arab, pro-Saddam Hussein government which concentrates enormous powers in his person (E/CN.4/1992/31, para. 73) is to elevate those things which are Arab-like and Saddam Hussein-like (e.g. the Sunni Tikritis et al.). Thus may be explained such things as "Arabization" policies and laws which are concrete manifestations of the prevailing chauvinism. By the same token, of course, the logical effect of policies which discriminate in favour of some are the negative consequences felt by those who are not so favoured or, more often than not, are specifically discriminated against. In this connection, the Special Rapporteur recalls again the "administrative procedures" restricting Turkomans in Kirkuk from selling their property to anyone but Arabs (abolished only after achieving a significant change in population ratios in this oil-producing region).

178. Parallel to the prevailing chauvinism is the absolute intolerance of political opposition. In an effort to maintain the ruling Party's total grip on life in Iraq, the Government of Iraq has effectively demonstrated its unwavering preparedness to use all means to eliminate any and all opposition. Understandably, the natural reaction to chauvinistic policies is the tendency of non-beneficiaries to group themselves (or, perhaps, be grouped in the minds of the chauvinists) along their distinguishing lines - in this case, along ethnic and religious lines. As and when any of these groups appear to voice opposition to the prevailing order, the reaction of the authorities has been to endeavour to break down the natural basis of the grouping in order to eliminate the seeds of opposition and otherwise coerce the group into passive obedience. This explains the policies of the Government affecting each ethnic and religious group discussed above: policies aimed at eliminating "opposition" (whether real, perceived or potential) in fact manifest themselves as policies against whole ethnic and religious communities. This is especially the case where the very nature of the group (e.g. its religious organization, as in the case of the Shi'a, or its life-style, as in the case of the Ma'dan) normally resists intrusion by, or is even impenetrable to, the instruments of total State control. In such cases, it is necessary for the Government to break down the religious and traditional orders to allow the dictatorial government to pervade. This obsession with eliminating opposition, regularly characterized as "subversives" or "saboteurs", explains the development of operations such as Anfal (against the population of the north), policies which are destroying the natural habitat and traditional life-styles of the Ma'dan and have forced them into "collective villages", and policies which have allegedly placed Iraqi Security within the walls of Shi'a mosques.

179. From the point of view of evaluating the evidence seen as a whole, it is to be stressed that there is an overwhelming complex of evidence which the Special Rapporteur finds more than convincing. That complex exposes a matrix of human rights violations which results in an all-pervasive order of repression and oppression which is sustained by broad-based discrimination and wide-spread terror. The system is maintained by an ingeniously constructed regime, militaristic in nature, incorporating multiple security and intelligence services which are themselves supported by webs of agents and informants watching one another and ultimately accountable to the President alone. The success of this order has largely come about through the pacification of the majority of the population through terror and misinformation. Indeed, the breadth of violations which have escaped the attention of the international community for almost a generation have created a situation where too much focus on individual incidents would be to misrepresent the larger picture: for a war-weary population subjugated to a system of total control, the problem is the order itself.

B. Conclusions as to responsibilities

180. The Special Rapporteur has already commented in chapter I upon the general responsibility of the Government of Iraq for the situation of human rights in Iraq. However, in terms of specific situations and violations, the following conclusions are relevant.

181. As concerns the variety of allegations which affect the population in general, it is clear that the organization and functioning of the system of state security, for which the Government of Iraq is alone responsible, is the cause of innumerable violations. In this connection, the legal capacities and the wide latitude of action granted to the security apparatus invite abuses. In fact, according to several of the documents in the possession of the Special Rapporteur (some of which are reproduced in annex I), persons and services acting for the State are directed to take actions which would constitute grave violations of human rights. Moreover, there are reports that care is taken to ensure impunity for the persons carrying out such instructions. For example, according to a report from the Iraqi News Agency, a Decree of the Revolution Command Council of 21 December 1992 exempts members of the Arab Baath Socialist Party and "popular patrols ... conducting security and observation missions" from being subjected to "any legal proceedings for confronting thieves, those who infringe on security and order and deserters from army service, even if the confrontation results in the injury or death of the thieves and those who infringe security and order". The granting of such licences to injure and to kill seems to have been widespread in Iraq according to documents 2, 9, 16 and 18 of annex I. The breadth of weaponry and equipment available to the Baath Party also raises particular concern in this regard (see document 21 of annex I). In the light of Iraq's on-going "police" and "security" operations in the southern part of the country, and the previously reported prejudices against the Ma'dan people, this kind of governmental action is most disturbing.

182. With respect to the very large number of disappearances in Iraq on which the Special Rapporteur reported last year, specifically recommending that the Government establish a national commission to assist family members in determining the fate of the missing, the Special Rapporteur is disappointed that no such efforts have been undertaken by the Government. In this regard, the Special Rapporteur notes General Comment No. 6/16 of 27 July 1982 of the Human Rights Committee concerning the right to life which states that States parties to the Covenant on Civil and Political Rights should take specific and effective measures to prevent disappearances including thorough investigations. Consequently, in so far as the Government of Iraq fails to take specific and effective measures to thoroughly investigate reports of disappearances, it is in violation of its obligations under the Covenant, which is to say nothing of its responsibility for the cause of a disappearance in the first place. Moreover, given the fact that the Working Group on Enforced or Involuntary Disappearances has provided the Government of Iraq with information on 9,447 cases, and noting that the Government of Iraq maintained (and presumably maintains) detailed files on a large number of persons (see especially documents 6, 7, 10 and 12 of annex I), the Special Rapporteur would expect the Government of Iraq to be in a position to thoroughly investigate disappearances and inform the families of the results.

183. In regard to the religious and cultural freedoms of the Shiah community of Iraq, the Special Rapporteur remains disturbed by the continuing reports of governmental interference in the institutions of the Shiah including its properties and clergy. So long as there remain proscriptions against various religious practices, and so long as the religious community cannot freely organize and administer itself in the sphere of its own activities, the

Government of Iraq must be held responsible for violations of religious freedoms. Moreover, in connection with reports of intimidation and serious violations against the persons of the religious leadership, the Special Rapporteur remains deeply concerned about the fate of the 105 clerics and their family members who disappeared after last being seen in the custody of the authorities.

184. The situation of the predominantly Kurdish region of northern Iraq is particularly disturbing. The recent experience of the population has been described above. The present economic blockade instituted against the Kurdish region is clearly incompatible with Iraq's obligations under both international human rights law (in terms of economic rights and, to the extent it threatens survival, the right to life) and international humanitarian law in so far as the blockade is tantamount to a siege. In the face of its history and prevailing conditions, the Special Rapporteur notes and applauds the democratic organization of the local administration in the northern region of Iraq.

185. Turning to the humanitarian situation in the country as a whole, the Special Rapporteur cannot dismiss the disquiet that every person concerned with upholding human rights and humanitarian values must be feeling. With no exception, the pain and suffering endured by all persons in Iraq, irrespective of its cause or the identification of those responsible, is greatly unsettling. However, in assessing the causes of this clearly deteriorating situation, the Special Rapporteur stresses again the responsibility of the Government of Iraq both for the continuation of the sanctions and for its choice not to cooperate with the United Nations pursuant to Security Council resolutions 706 (1991) and 712 (1991) to enlarge the resources available to the people. In this connection, the Special Rapporteur refers to his comments in chapter I and chapter II (at B 2 (d)), and to his comments in his last report to the General Assembly (A/47/367/Add.1, paras. 32-37).

186. Finally, as mentioned in his first report to the Commission on Human Rights (E/CN.4/1992/31), and taking into account the powers and responsibilities of certain individuals according to Iraqi law and evidenced in the documents in the possession of the Special Rapporteur (see especially documents 2, 3, 4, 9, 10, 11, 13, 16 and 18 of annex I), the Special Rapporteur again concludes that those persons in the highest echelons of Government hold special and individual responsibility for a large number of the violations on which the Special Rapporteur has reported. In terms of the most serious violations, the Special Rapporteur observes that international law would not afford immunities.

C. Recommendations

187. Taking into consideration all of the above, the Special Rapporteur therefore recommends:

(a) That the Government of Iraq take immediate steps to bring the capacities and actions permitted of its security apparatus into conformity with the standards of international law, in particular those of the International Covenant or Civil and Political Rights;

(b) That the Government of Iraq immediately establish a national commission on disappearances, and take appropriate steps to cooperate closely with the Working Group on Enforced or Involuntary Disappearances to resolve those thousands of cases which have been submitted through this body;

(c) That the Government of Iraq immediately cease its interference in the religious activities of the Shiah community and take such steps as to compensate it for damages and locate the missing clergy and their families;

(d) That the Government of Iraq end its internal economic embargoes on both the northern and southern regions and take such steps as to cooperate with international humanitarian agencies in the provision of relief to those in need throughout Iraq;

(e) That the Government of Iraq immediately act to take advantage of the "food for oil" formula according to Security Council resolutions 706 (1991) and 712 (1991);

(f) That, considering the exceptional gravity of the situation of human rights in Iraq, the Special Rapporteur's previous recommendation to send human rights monitors be approved and that he be authorized to consult the Secretary-General on modalities leading to the placement of monitors in such locations as would facilitate improved information flow and assessment and would help in the independent verification of reports on the situation of human rights in Iraq.

Annex I

SELECTED DOCUMENTS FOUND IN IRAQI SECURITY OFFICES

The following texts are translations of selected official documents of the Government of Iraq taken from the offices of regional security departments in the Autonomous Region of Kurdistan. The documents reproduced below appear in chronological order, with the exception of Document 1 which bears no date. With respect to certain documents, the following is to be noted:

Document No. 3: The Special Rapporteur is in possession of the 39 Presidential Decrees referred to in the letter of 3 April 1985 save for Decrees 1000 and 1036. The said Decrees approve the execution of a total of 523 persons sentenced by the Revolutionary Court between 20 August 1983 and 10 September 1983.

Document No. 4: This Decision appears at the top of a letter from the Directorate of Security, Governorate of Arbil.

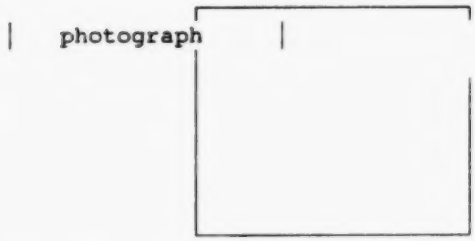
Document No. 5: This document consists of two separate letters found together, the second being the response to the first.

Document No. 8: This document consists of a brief letter and its attachment.

Document No. 18: This document consists of a brief letter together with its lengthier attachment.

Document No. 1

ARAB BAATH SOCIALIST PARTY
Sulaimaniya Branch



APPLICATION FORM FOR ENGAGEMENT IN NATIONALIST ACTIVITY

(Text of Revolution Command Council Decision)
(3)

The death penalty is prescribed for:

(a) Any member of the Arab Baath Socialist Party who deliberately conceals his previous party - political links and affiliations;

(b) Any present or past member of the Arab Baath Socialist Party who is found to have had connections with any other party or political body and to have worked for or in the interests of such body while committed to the Party.

I, , have read the above Revolution Command Council decision and will be answerable before the law if it is found that I have violated the provisions of that decision, in witness whereof I have signed below.

(c) Any member of the Arab Baath Socialist Party who, after leaving the Party, joins and works for, or in the interests of, another party or political body.

Full name:

Residential address:

Occupational address:

Date:

Authentication of signature by the Party cell:

Countersignature of head of section, and section stamp

(Signed)

Document No. 2

At its meeting held on 21 July 1981, the Revolution Command Council decided as follows:

1. The courts and police tribunals are not permitted to hear any proceedings brought against the units assigned to track down deserters and evaders of military service in the event of such units being obliged to use force, resulting in the infliction of physical injury or material damage, in order to arrest such deserters and draft evaders.

2. All proceedings brought against members of the units covered by the provisions of this Decision shall be closed and the legal penalties imposed on them shall be suspended.

Please take note and inform the persons concerned.

(Signed) Ali Hassan Majeed
Director General, National Secretariat

General Directorate of Security
Directorate of Security in the Governorate of Sulaimaniya
Department 64

Ref: 35566 Date: 9 August 1981

Confidential

To: Registry offices of all police precincts and security branches

Subject: Decision

The above is a copy of letter No. 34/20238 dated 26 July 1981 from the Revolution Command Council/National Secretariat transmitted to us under cover of Public Security letter No. K1/66/7935 dated 28 July 1981. Please take note and acknowledge.

(Signed) Security Colonel
Director of Security in the
Governorate of Sulaimaniya

Document No. 3

Department of Public Security Ref: 28492

Date: 3 April 1985

To: Notification List D, the Department of Criminal Prosecutions, and 45

Death Sentence

Please find attached herewith a copy of letter No. 10285 dated 31 March 1985 from the Head of the Department of Presidential Affairs, together with the attached Presidential Decrees Nos. 998 to 1036 of 1983 concerning execution of the death penalty imposed on the persons named therein following their conviction and sentencing by the Revolutionary Court in cases of a special nature. You are requested to take the necessary action. With regards.

(Signed) Director of Public Security

Enclosures: Presidential Decrees

[Handwritten comment addressed to the local Office of Criminal Prosecutions/Political Section: Are any of the above-mentioned persons who have been sentenced to death in our custody?]

[Handwritten reply, dated 9 April, addressed to the local Director: None of the above-mentioned persons who have been sentenced to death are in our custody, with the exception of the Barzani group who were living in our area prior to their detention. For your information. With regards.]

REPUBLIC OF IRAQ

Department of Presidential Affairs

Telex 2299/Palace

Ref: Q/3/10285 31 March 1985

Intelligence Service [Mukhabarat]

Department of Public Security

Death Sentences

Please find enclosed herewith copies of Presidential Decrees Nos. 998 to 1036 of 1983, concerning execution of the death sentence imposed on the persons named therein following their conviction and sentencing by the Revolutionary Court in cases of a special nature.

You are requested to take the necessary action. With regards.

(Signed) Dr. Taha Ibrahim Al-Abdullah
Deputy Head of the Department of
Presidential Affairs

PRESIDENTIAL DECREE NO. 998

Pursuant to the provisions of article 58, paragraph (j), of the Provisional Constitution.

We have decreed as follows:

Approval is hereby given for execution of the sentences of death by hanging which have been passed on the following persons:

Murtadha Jaafar Abdul Abbas; Muhsin Ashour Shamma; Abbas Kadhim Abbas; Hadi Abed Ali; Imran Musa Abdullah; Ashour Shamma Khalf; Hadhim Hussein Hassan; Hassan Ashour Shamma; Hussein Hammoudi Jabbara; Bashar Muhammad Ali Mahdi; Musa Ahmad Amin; and Moneim Farhan Hassan;

who were convicted and sentenced by the Revolutionary Court on 1 September 1983 in Criminal Case No. 1306/1983 in accordance with article 156 (based on articles 49, 50 and 53) of the Penal Code.

This decree shall be put into effect by the competent Ministers.

DONE at Baghdad on the twenty-fifth day of the month of Dhu'lqa'dah in the year 1403 A.H., corresponding to the third day of the month of September in the year 1983 A.D.

(Signed) Saddam Hussein
President of the Republic

Document No. 4

Copy of Revolution Command Council Decision No. 472
dated 23 April 1985

Decision

Pursuant to the provisions of article 42, paragraph (a), of the Constitution, the Revolution Command Council meeting on 23 April 1985 decided as follows:

1. Sequestered property shall be sold within a maximum period of three months from the date of its seizure in the case of movable property or from the date of its registration with the Real Estate Registration Departments in the case of immovable property.

2. A civil servant who is found responsible for a failure to sell sequestered property within the period specified in this Decision shall be punished by a term of not less than six months' imprisonment and confiscation of his movable and immovable property.

3. Any legal stipulation or decision which contravenes the provisions of this Decision shall be inoperable.

4. This Decision shall take effect from the date of its publication in the Official Gazette.

Saddam Hussein
Chairman
Revolution Command Council

Document No. 5

REPUBLIC OF IRAQ

Ministry of the Interior

General Directorate of Security

Ref: 607 Date: 27 April 1985

From: Directorate of Security at Arbil, Technical Department

To: The Criminal Investigation Officer

Personal and Confidential

Subject: Interrogation rooms

Department 59 has installed clandestine and non-clandestine bugs and recording equipment in interrogation rooms. Please let us have your evaluation of these rooms and their usefulness so that we can duly inform Security Department 59.

(Signed) Officer in Charge
Technical Department

cc: The officer in charge of the Interrogation Branch, for the same purpose.

REPUBLIC OF IRAQ

Ministry of the Interior

General Directorate of Security

Directorate of Security in the Governorate of Arbil

Ref: 3234 Date: 28 April 1985

To: Officer in charge of the Technical Department

Subject: Interrogation rooms

With reference to your letter No. 607 of 27 April 1985:

1. In the light of the opinions expressed by my predecessors in the Criminal Investigation Branch, these rooms evidently serve no useful purpose and have not been used because they have not produced the desired results.

2. We believe that these rooms could be used in cases in which the investigating officer decides to wear down the nerves of a suspect and subject him to psychological pressure by keeping him without sleep for a certain period of time. The investigating officer may decide to take this course of action in the case of some, but not all, suspects. For your information.

(Signed) Security Captain
Criminal Investigation Officer

Document No. 6

Highly Confidential

From: Shaqlawa Security Directorate, Section 64 Ref: 3485

To: All Date: 19 November 1985

Public Security Department 64 has instructed us as follows:

In order to ascertain the number of detained and evacuated relatives of subversives, as well as persons who have been detained and evacuated due to the fact that their relatives have fled to join the subversives, the Director-General has issued the following instruction:

1. We must be supplied with lists containing the names, occupations, ages and family relationships of the persons concerned since the decision was put into effect.

2. The evacuees and detainees must be photographed and their photographs must be sent to us with the lists, if you have them. This directive shall be applied henceforth.

3. We must be provided with separate lists containing the names of the evacuees who have not been photographed and on whom you do not have full information.

For information and action. We must receive your reply within three days. Please acknowledge.

(Signed) Security Major
Director of Security, Shaqlawa District

[Manuscript note addressed to Commissioner Karim, requesting him to take the necessary action.]

Document No. 7

Urban Security Post

Ref: 686 2 February 1986

To: Urban Security Directorate 19

Subject: Information

With reference to your letter 1702 of 25 January 1986:

A secret investigation of Mr. Mahmoud Rahim Rashid has shown that he is an ethnic Kurd, born at Sulaimaniya in 1962 and of good conduct and behaviour.

In other words, he is a supporter, without nationalist affiliations, and none of his relatives have joined the mercenaries. However, it is not recommended that his leave be extended, since he has refused to collaborate with us in the field of security work ... We enclose herewith four copies of the report on his activities. Regards.

(Signed) Captain
Urban Security Officer

Enclosures: 4 copies of the report on his activities
1 copy of his refusal to collaborate.

Document No. 8

In the Name of God the Merciful the Compassionate

Office of the President of the Republic

The Secretary

General Directorate of Military Intelligence
Eastern Region Intelligence Organization

Seal: I come to you from Sheba with sure tidings
General Directorate of Military Intelligence

Please quote the full reference number
(The martyrs will continue to be the noblest of us all)

Highly confidential and personal

Ref: Section 3/Division 3/Saddam's Qadisiya/1154

Date: 10 June 1987

To: General Directorate of Military Intelligence (Section 3)

Re: Transmission of copy of a letter

Enclosed is a photocopy of highly confidential and personal letter No. 3726 dated 6 June 1987 from the Headquarters of the Bureau for the Organization of the North.

Please take note.

Enclosures:
1 photocopied letter

(Signed) p.p. Staff Colonel
Director, Eastern Region Intelligence Organization
Staff Lieutenant Colonel
Salman Abed

Manuscript notes:
To be kept on file
11 June

Highly confidential and personal

A Single Arab Nation With An Eternal Message

Arab Baath Socialist Party

Iraqi Region

Headquarters of the Bureau for the Organization of the North

Highly confidential and personal

Ref: 28/3726 Rectangular seal: Eastern Region Intelligence Organization

Date: 6 June 1987 Ref: 1757

Date: 7 June 1987

To: Corps commanders

Re: Implementation of measures

Comradely greetings,

The following instructions have been issued subsequent to the measures taken in the northern region aimed at ending the long line of traitors from the Barzani and Talabani clans and the Communist Party, who have joined ranks with the Iranian invader enemy with a view to enabling it to acquire territory belonging to the cherished homeland. The measures contained in the plan were carried out by the armed forces of the Great Commander, with the assistance of valiant fighters from the Popular Army and the very finest of the people, who consequently inflicted heavy losses on the long line of traitors and their collaborators, reduced their area of movement, cut off their village supply sources, destroyed their rest stations and eliminated their sources of funding, thereby compelling them to undertake suicide missions in order to demonstrate their continued strength. The most recent incidents, entailing attacks on the three sectors, are evidence of their demise. In order to put an end to such attacks and inflict heavy losses on the enemy, the following measures should be taken:

1. The combat readiness of all armed forces and Popular Army sectors should be stepped up. The state of alert and vigilance should also be increased in order to counter any attacks, the aim being to inflict the greatest losses on the traitors, who are agents of the racist Iranians.

2. Security at the various sectoral headquarters of the Popular Army should be strengthened and they should be placed on extremely high alert, as the primary aim of the subversive traitors is to gain control over the sectoral command post in order to cut the chain of command and thus create a state of confusion. You are well aware of the outcome of such actions.

3. In our estimation, the attacks on the sectors, which comprise three governorates, were part of a plan devised by the subversive traitors, in conjunction with the Iranian enemy, with a view to giving citizens in all

governorates the impression that they continued to maintain their strength and were capable of inflicting harm on the armed forces and the fighters from the Popular Army.

4. The military commands which issue orders to all Popular Army sectors are to visit them and give briefings on the situation and on the latest developments in the theatre of operations in the northern region, thereby enabling them to organize their defensive positions and ensure that they are highly capable of a strong and rapid response against the traitors and the Iranian enemy in the event of attack.

5. The security agencies are to be responsible for providing us with intelligence information before the traitors attack, or, at the very least, within 24 hours of such attacks occurring. Accordingly, your members should be urged to take action to monitor the movements of subversive traitors.

Please take note and inform us of whatever necessary action is taken.

Regards.

Maintain the faith and the struggle.

(Signed) Comrade Radhi Hassan Salman
Deputy Secretary
Headquarters of the Bureau for
the Organization of the North

cc: Comrade Secretaries of the branch offices: for the purpose specified above. Please keep us informed. Regards.

Comrade Directors of Security in the northern governorates) For the purpose
Directorate of the Eastern Region Intelligence Organization) specified in
Directorate of the Northern Region Intelligence Organization) para. 5 above.
Please keep us informed. Regards.

Manuscript notes:

1. Operations to be carried out precisely according to the instructions of the Headquarters of the Bureau for the Organization of the North.

2. Information which we receive on the activities and plans of subversives is to be sent to Headquarters, to Section 3 and, if necessary, to the corps concerned.

3. Please bear this in mind and provide the Bureau for the Organization of the North with all the information we have.

4. I believe there is no need for distribution to the centres.

5. To be kept with the Director of Section 3.

6 June 1987

The Director

Please take note and order as you see fit regarding distribution to the competent sections and centres.

(Signed) Lieutenant Colonel
7 June 1987

Division officers: Please take note and act accordingly, as indicated in the comments of the Director, and return the letter to me.

(Signed)
9 June

Read and noted.

(Signed)
10 June

Read and noted.

(Signed)
10 June

Document No. 9

BUREAU FOR THE ORGANIZATION OF THE NORTH - HEADQUARTERS

Ref: 28/4008 Date: 20 June 1987

From: Bureau for the Organization of the North - Headquarters

To: The Commanders of the First, Second and Fifth Army Corps

Subject: Procedure to deal with the villages that are out of bounds for security reasons

In view of the fact that the officially announced deadline for the amalgamation of these villages expires on 21 June 1987, we have decided that the following action should be taken with effect from 22 June 1987: (i) All the villages in which subversives, agents of Iran and similar traitors to Iraq are still to be found shall be regarded as out of bounds for security reasons; (ii) They shall be regarded as operational zones that are strictly out of bounds to all persons and animals and in which the troops can open fire at will, without any restrictions, unless otherwise instructed by our Bureau; (iii) Travel to and from those zones, as well as all agricultural, animal husbandry and industrial activities, shall be prohibited and carefully monitored by all the competent agencies within their respective fields of jurisdiction; (iv) The corps commanders shall carry out sporadic bombardments using artillery, helicopters and aircraft, at all times of the day or night in order to kill the largest number of persons present in those prohibited zones, keeping us informed of the results; (v) All persons captured in those villages shall be detained and interrogated by the security services and those between the ages of 15 and 70 shall be executed after any useful information has been obtained from them, of which we should be duly notified; (vi) Those who surrender to the governmental or Party authorities shall be interrogated by the competent agencies for a maximum period of 3 days, which may be extended to 10 days, if necessary, provided that we are notified of such cases. If the interrogation requires a longer period of time, approval must be obtained from us by telephone or telegraph or through comrade Tahir al-Ani; (vii) Everything seized by the advisers and troops of the National Defence Brigades shall be retained by them, with the exception of heavy, mounted and medium weapons. They can keep the light weapons, notifying us only of the number of those weapons. The corps commanders shall promptly bring this to the attention of all the advisers, company commanders and platoon leaders and shall provide us with detailed information concerning their activities in the National Defence Brigades.

(Signed) Comrade Ali Hassan al-Majeed
Member of the Regional Command and Secretary of the Bureau for the Organization of the North

[Stamp of the Revolution Command Council, Northern Affairs Committee.]

cc: Chairman of the Legislative Council;
Chairman of the Executive Council;
Party Intelligence;
Chief of the Army General Staff;
Governors (Chairmen of the Security Committees) of Nineveh, Ta'mim, Diyala, Salahuddin, Sulaimaniya, Arbil and Dohuk;
Branch secretaries of the above-mentioned governorates;
General Directorate of Military Intelligence;
General Directorate of Security;
Director of Security of the Autonomous Region;
Security Services of the Northern Region;
Security Services of the Eastern Region;
Security Directors of the governorates of Nineveh, Ta'nim, Diyala, Salahuddin, Sulaimaniya, Arbil and Dohuk.

For information and action within your respective fields of jurisdiction. Keep us informed.

Document No. 10

A Single Arab Nation With An Eternal Message

Arab Baath Socialist Party
Iraqi Region
Headquarters of the Bureau for the Organization of the North
Office of the Secretariat

(Confidential express cable)

Ref: 4350
Date: 7 September 1987

To: All security committees in the governorates of the northern region, Diyala and Salahuddin

Re: Listing and expulsion of the families of subversives

Comradely greetings,

In the light of the meeting held on 6 September 1987, chaired by Comrade Ali Hassan al-Majeed, Secretary of the Bureau for the Organization of the North, and attended by the heads and senior officials of the Party branches in the northern region, the following instructions have been issued:

1. The security committees in the northern governorates should submit lists of the families of subversives, to be completed between 6 and 15 September 1987. As soon as the lists are complete, the families in question should be expelled to the regions where their subversive relatives are, with the exception of males aged between 12 and 50 inclusive, who should be detained.

Families which comprise martyrs, missing persons, captives, soldiers or fighters in the National Defence Brigades shall be excluded from such measures. In those instances, only the mother is to be expelled, together with any subversive sons of hers.

2. Steps should be taken to hold public seminars and administrative meetings to discuss the importance of the general population census, due to take place on 17 October 1987, and to stress clearly that anyone who fails to take part in the process without a valid excuse shall lose his Iraqi nationality. He shall also be regarded as an army deserter in respect of whom Revolution Command Council Decision No. 677 dated 26 August 1987 shall apply.

3. Subversives who repent shall be permitted to return, having first surrendered their weapons, between 6 September and 17 October 1987, after which they shall not be permitted to do so, even if they surrender their weapons.

Please take note and inform us of whatever necessary action is taken. Regards.

(Signed) Tahir Tawfiq
Secretary
Northern Affairs Committee

c.c:
All Party branch commands in the northern region, Diyala and Salahuddin
First Corps Command
Fifth Corps Command
General Directorate of Military Intelligence
General Directorate of Security
Second Corps Command

Please take note. Regards.

Document No. 11

In the Name of God the Merciful the Compassionate

Eastern Region Intelligence Organization

Confidential and personal

Ref: Section 3/Division 3/2127
Date: 28 September 1987

To: All centres other than branch committees

Re: Demolition of villages

Letter no. 5866 dated 17 September 1987, which was transmitted to us by way of confidential and personal letter no. 5/1493 dated 23 September 1987 from the Security Committee in the governorate of Ta'mim, gave instructions that villages which pose no security threat should be demolished only with the consent of valiant Comrade Ali Hassan al-Majeed, Secretary of the Bureau for the Organization of the North. Exceptions are villages from which shots are fired at military convoys or which are used by subversives to attack government installations and defy the State.

Please take note and carry out the instructions precisely.

(Signed) Lieutenant Colonel
p.p. The Director
Eastern Region Intelligence Organization

Document No. 12

In the name of God, the Merciful the Compassionate
Halabja Security Directorate

Ref: 6674
Date: 14 November 1987

To: Sulaimaniya Security Directorate, Section 3

Subject: Monthly activities

The following is an account of the activities of our Directorate and its branches during the present month. For information. Regards.

(Signed) Halabja Security Director

1. Number of persons arrested on suspicion/none.

2. Number of detained families of subversives/none.

3. Anti-subversion operation No. 4 - referred to in our letters listed below:

(a) 6462 dated 1 November 1987.
(b) 4832 dated 11 November 1987 sent to Section 1.
(c) 6581 dated 8 November 1987.
(d) 6668 dated 14 November 1987.
(e) 6671 dated 14 November 1987.

4. Operations to kill subversives/none.

5. Relocation of families/none.

6. Persons arrested on grounds that did not justify the bringing of charges against them/none.

7. The economic blockade - measures were taken in coordination with the checkpoints in our areas to prevent contraband goods and foodstuffs from being smuggled outside the towns.

8. Number of deserters and draft evaders - 1 (Umar Aziz Ali Mahmoud al-Jaff, who was sent to the depot at Darbandikhan).

9. The hunt for subversives - a number of ambushes were laid by our special units on the roads used by subversives and in areas in which they are operating.

10. Operations to lower the morale of subversive groups - a number of pamphlets received from the Sulaimaniya Security Directorate were distributed in the areas in which subversives are operating in order to lower morale in their ranks.

11. Operations to capture subversives/none.

12. Number of cases referred to the Revolutionary Court and other courts/none.

13. Operations to counter the distribution of hostile tracts - 2 in the district of Halabja.

14. Arrests of families intending to flee to Iran/none.

15. Enlistments in the ranks of the National Defence Brigades - 8.

16. Recruitment of general informants - 70.

17. Citizens' documents processed - all the citizens' documents referred to us by the higher authorities were processed.

18. Action taken against fugitive families - we are taking action to persuade their members to cooperate with us in furtherance of our security operations.

19. Public relations and political guidance - we have good relations with the public, having shared their joys and sorrows and attended the funerals of the martyrs killed by the subversive groups.

20. Arrests of persons carrying weapons without a permit/none.

21. Deterrent operations within the ranks of the subversives/none.

22. Number of cases referred to other authorities for investigation/none.

23. Activities of our Directorate's internal units - we do not have any units operating within our Directorate.

24. Activities in connection with the surveillance and pursuit of subversives - the district officers have been instructed to man the checkpoints and conduct thorough searches of all vehicles and our informants have been ordered to look out for smugglers.

Captain Saadoun has been contacted and has confirmed that (illegible) brigades is 32 and not 8.

(Signed) Security Lieutenant
Officer in Command of Section 3

Document No. 13

REVOLUTION COMMAND COUNCIL

Decision No. 10

3 January 1988

Decision

In accordance with the provisions of article 42, paragraph (a), of the Constitution, at its meeting held on 3 January 1988 the Revolution Command Council decided as follows:

A. Revolution Command Council Decision No. 677 (six hundred and seventy-seven) dated 26/8/1987 (twenty-six August of the year nineteen hundred and eighty-seven) is hereby amended to read as follows:

1. The Party organizations shall carefully examine the situation of military deserters and draft evaders who are captured.

2. The death sentence shall be carried out by the Party organization, after that examination, on every deserter or draft evader who is captured if the duration of his desertion or draft evasion exceeds one year or if he has committed the crime of desertion more than once.

3. A draft evader or deserter who returns repentant or whose period of draft evasion or desertion amounts to one year or less, even if captured, shall be handed over to his unit to be dealt with in accordance with military law and regulations.

4. The provisions of this Decision shall apply to all persons who evaded military service prior to the date of its promulgation and who do not present themselves for re-enlistment within 30 days from the date of its publication in the Official Gazette.

B. This Decision shall be published in the Official Gazette and shall supersede any text that conflicts with its provisions.

(Signed) Saddam Hussein
Chairman of the Revolution Command Council

Document No. 14

In the Name of God the Merciful the Compassionate

Office of the President of the Republic
The Secretary
General Directorate of Military Intelligence
Eastern Region Intelligence Organization

Seal: I come to you from Sheba with good tidings
General Directorate of Military Intelligence

Please quote the full reference number
(The martyrs will continue to be the noblest of us all)

Confidential and personal

No: Section 3/Division 3/Saddam's Qadisiya/422
Date: 18 March 1988

To: Sulaimaniya Security Directorate - Chamchamal - Sayyid Sadiq - Darbandkhan

Re: Detention of families of subversives

Confidential express letter no. 297 dated 15 March 1988 from the Headquarters of the Bureau for the Organization of the North gave instructions that the families of subversives who take refuge with our units should be detained in special guarded camps set up for that purpose under the supervision of intelligence officers from the First and Fifth Corps.

Please take note and inform us of any necessary action taken.

(Signed) Lieutenant Colonel
p.p. The Director
Eastern Region Intelligence Organization

Confidential and personal

Document No. 15

From: Directorate of Urban/Security Branch 3

To: All Security posts

Ref: 11164
Date: 1 September 1988

In accordance with Sulaimaniya Security telegram No. 4416 of 31 August 1988, you are instructed to apply the economic blockade more strictly. Please take the necessary action, apply the ration card system scrupulously and show diligence in this regard.

For your information in accordance with the above. Please keep us informed.

(signed) Security Major
Director of Urban Security

Document No. 16

OFFICE OF THE PRESIDENT OF THE REPUBLIC

The Secretary

General Directorate of Military Intelligence

Ref: Dept.5/Section 3/Branch 2 Date: 17 October 1988

Personal and Confidential

To: Director of Intelligence, Northern Region
Director of Intelligence, Eastern Region

Subject: Results of the final Anfal operation

1. During and after the final Anfal operation, groups of subversives infiltrated deep inside our territory. In this connection, our Leader and President (may God preserve him) has issued the following order:

"Diligent and unconventional action must be taken to liquidate any pocket within the Northern Region before it has time to gather sympathizers and supporters around it. The area and divisional commanders shall be held personally responsible for this."

2. The Director-General has instructed me to notify you accordingly. Please take the necessary action.

(Signed) Staff Brigadier
p.p. Director-General of Military Intelligence

[Manuscript note addressed to Lieutenant Colonel Fadhil: Monitor the movements of those groups very carefully and keep the security authorities regularly informed.]
[Manuscript note signed by Lieutenant Colonel Fadhil: Noted. We are acting in accordance with the above directive and will continue to do so.]

Document No. 17

Office of the President of the Republic

The Secretary

General Directorate of Security

Directorate of Security in the Autonomous Region

Ref: 14951
Date: 21 November 1988

Personal and confidential

To: The Security Directors in the Autonomous Region/Sulaimaniya

Subject: Instructions

The head of the Bureau for the Organization of the North has informed us as follows:

Having, with God's help, eliminated the subversive groups and fifth-columnists in our beloved North, the new situation in the region necessitates the adoption of security measures consistent with the changed circumstances in order to guard against any new course of action to which the remnants of the subversives might resort in an attempt to create pockets of subversion to engage in activities that might give their sympathizers and foreign masters the impression that they still possess footholds in our territory or that they are still capable of continuing their acts of subversion. Henceforth, we will certainly not encounter large subversive groups operating from fixed bases and engaging in large-scale activities with far-reaching repercussions; we will find only small groups of 10-15 subversives who will move from place to place, engage in subversive activities and then wait to see the extent of our actual reactions. If those reactions are normal and routine, they will diligently endeavour to expand their bases and engage in larger-scale operations at later stages. They will also endeavour to re-establish their internal organizations and, to that end, will remain in contact with some of their accomplices who benefited from the Amnesty Decree, particularly those misguided persons who will adopt a deceitful course of action with a view to furthering the cause of the subversives and their masters. In order to counter such attempts and nip them in the bud before they become dangerous, the conference held on 8 November 1988 to examine these potential developments and means to deal with them decided that action should be taken in accordance with the following principles:

I. In regard to security

(a) Hostile activity must be strictly prohibited in the governorates in the Northern Region and also in the cities, towns, settlements and villages in the governorates of Nineveh, Diyala and Salahuddin. The organizational structure of hostile groups must be disrupted wherever they are found.

(b) Subversive activities, even on a small scale, must not be permitted to resume after 4 January 1988, the date on which the subversion ceased to escalate. Reasonable force and severity must be used to counter such criminal activities as soon as they are committed.

(c) A rapid and resolute response must be made to any incident, however small. The magnitude of such incidents must be exaggerated and they must be recorded on photographs and/or videotape.

(d) Persons who, on investigation, are found to have acted deviously or to have collaborated with the enemy must be dealt with in a harsh and determined manner.

Kurdish citizens must be treated in the same way as any Iraqi citizen in regard to their rights and obligations, with the exception of those who have benefited from Amnesty Decree No. 736 of 8 September 1988, who must not be regarded as having the same rights and obligations as Iraqis unless they show, through their good intentions and correct behaviour, that they have completely abandoned their past association with the subversives and prove themselves to be more loyal to Iraq than their fellow Kurds who benefited from the above-mentioned Amnesty Decree. In such a case, they must be treated in accordance with the following rules:

1. They shall not be eligible for election to the National Assembly, the Legislative Assembly, the People's Councils, the Municipal Councils or the Republican Organizations.

2. Persons who have benefited from the Amnesty Decree shall not be entitled to buy, sell, rent or lease land or property owned by the State, nor shall they be entitled to enter into a contract with a government department for the performance of any private manual or professional work, until two years after they have returned to the national fold.

3. The competent agencies shall monitor the conduct of persons benefiting from the Amnesty Decree and shall ascertain their intentions by actively and carefully infiltrating their ranks.

II. In the economic sphere

In the light of the new situation following the elimination of the subversive groups, a review must be made of the economic measures previously necessitated by the exceptional circumstances in order to create a good impression of the new situation brought about by the re-establishment of order and security. This means that the states of emergency must be lifted, since

the continuation of the economic blockade would give the impression that we are still suffering from shortages. Accordingly, the following action must be taken:

(a) Petrol stations and gas cylinder depots should be allowed to operate without restrictions on their opening hours but in the manner deemed appropriate by the Committee to Combat Hostile Activity in the governorate concerned.

(b) The ban should be maintained on the sale of tinned meats, all types of legumes and cheeses and all tinned foods.

(c) Agencies in the settlements should be allowed to sell foodstuffs, except those specified in paragraph (b).

(d) Rationing should be reimposed on settlements from which you have reason to believe that foodstuffs are being passed on clandestinely to the remaining pockets of subversion or used for purposes of trafficking or smuggling.

We are fully confident that everyone will act with the same zeal and diligence that they have shown in serving our loyal people and our beloved country under the banner of our leader President Saddam Hussein, the hero of victory and peace (may God preserve and protect him). Please take the necessary action and keep us informed. Regards.

(Signed) Security Brigadier
Director of Security in the Autonomous Region